

Trade union initiatives to support improved safety and health in micro and small firms:

Trade Union Prevention Agents (TUPAs) in four EU Member States

October 2018



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A report of the European comparative analysis undertaken as part of a project led by Instituto Sindical de Trabajo, Ambiente y Salud (ISTAS) and developed in cooperation with Fondazione Di Vittorio, the Cardiff Work Environment Research Centre (Cardiff University) and NSZZ Solidarność

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The project presented in this report was funded by the European Commission (VP/2016/004 Improving expertise in the field of industrial relations) and could not have been completed without this support. It was led by Instituto Sindical de Trabajo, Ambiente y Salud (ISTAS) from Spain and developed in cooperation with Fondazione Di Vittorio from Italy, the Cardiff Work Environment Research Centre at Cardiff University in the UK and NSZZ Solidarność from Poland.

The report is an analysis based on a wide review of relevant research literature and five national studies of current practice, each of which was produced by individuals and members of research teams from each of the participating countries. Thus, Daniele Di Nunzio of the Fondazione Di Vittorio, was responsible for a report on Italy that is the basis of Chapter 4; Claudia Narocki and Valeria Uberti-Bona from the Instituto Sindical de Trabajo, Ambiente y Salud (ISTAS) were responsible for providing the information on Spain that is the basis of Chapter 5; while Kaj Frick produced a report on which he based Chapter 6 on Sweden; and David Walters and Emma Wadsworth from the Cardiff Work Environment Research Centre at Cardiff University in the UK, gathered the information on the UK on which they based Chapter 7. In addition, we are grateful to Agnieszka Mińkowska of NSZZ Solidarność for the information on Poland.

Many people, too numerous to mention individually, in all the countries on which the project focused, collaborated by giving us their time and information. We are most grateful for their participation and the information thus provided.

While we thank all those who have supported this project, responsibility for the analysis and conclusions presented in this report remains that of its authors.



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1 Introduction

This report provides an account of interventions initiated by trade unions to support improved approaches to safety and health in micro and small firms in four Member States of the European Union.

It takes as its point of departure several established understandings drawn from recent research literature concerning the question of safety and health in these enterprises. These embrace, firstly, the significance of micro and small enterprises (MSEs) in the economy of the EU, not only in terms of their number and share of employment but also their wider contribution to the economy, their position in the structure and operation of markets and their wider contribution to European societies. Secondly, they acknowledge that outcomes for the safety and health of workers in a substantial proportion of these enterprises represent a serious cause for concern and are a consequence of the multifaceted dimensions of the resource poverty experienced in many of these enterprises. Thirdly, these current understandings recognise that such resource poverty and the inequality in the exposure to risk with which it is accompanied occurs not only from the often, limited awareness, skills and capacities of owner-managers of MSEs to effectively manage safety and health. It is also a consequence of the weak and vulnerable position in which these firms are situated in the wider markets in which they conduct their business, where their struggle to address the competitive pressures that determine their economic survival may cause them to fail to prioritise adequate arrangements for the safety and health of their workers.

These poor OSH arrangements and outcomes continue to occur despite the presence of regulatory frameworks to protect workers' safety and health, the activities of agencies charged with their enforcement and a plethora of preventive services intended to support their delivery. The further understanding that therefore emerges from the recent research literature is that these requirements and systems for prevention are to some degree failing in their tasks. At the same time, it is evident from the pronouncements of governance in many Member States that there is a perception of over-regulation of OSH in relation to MSEs and that they should be allowed greater freedoms from so-called 'regulatory burdens', including those concerning safety and health.

All of which leads to questions concerning what is required to address this situation. Aside from the usual arguments concerning the adequacy of regulation, its enforcement and the systems in place to support both employers and workers to achieve better OSH outcomes, there are several further elements identified in recent research that point towards possible understandings concerning 'what works' in relation to improving OSH for workers in MSEs.

In this chapter, the rationale for the study and its reasons for exploring the role of trade unions in supporting OSH in MSEs are outlined, along with an overview of the structure of the report.

1.1 The study rationale

Most research that has focused on supporting the implementation and operation of adequate arrangements for OSH in micro and small firms agrees that some form of intervention is required to help owner-managers and their workers understand, implement and operate appropriate arrangements to assess and control the risks of the work in which they are engaged. That is, for a host of reasons to do with the multifaceted vulnerabilities of owners and workers in these enterprises, research suggests that it is unlikely that they will deliver these arrangements without some form of help. Hence much research, and the subsequent policies that have been based on it, are focused on the various forms such help can take and on the evidence for what makes it effective. This work has identified a huge range of specific forms of intervention that are successful under particular circumstances. Disappointingly, reviews of this work point to the conclusion that, for the vast majority of interventions, the circumstances of their application are quite narrow. Even when there is good evidence for their success, this rarely extends to an evaluation of the wider transferability or sustainability of such interventions.

At the same time, the findings of a parallel body of work in regulatory studies suggests that a range of 'smart' regulatory compliance strategies may have some traction in relation to addressing challenges associated with poor arrangements for OSH among MSEs. For example, such findings indicate that structural changes evident in trends in the current organisation of business, work and employment make 'command and control'



inspection and enforcement of OSH regulation increasingly less relevant. MSEs feature prominently in the restructured economies that present these challenges. Their sheer numbers alone make it impracticable for regulatory authorities to contemplate inspection visits to more than a small minority of these workplaces. For reasons of practicability, therefore, it is argued that additional approaches to compliance are necessary. But there are further important reasons to support such conclusions, that have been highlighted by recent research on MSEs. These include their heterogeneity and that of the risks they represent, with the activities of some being of much greater risk than others, suggesting that a risk-based approach to inspection may be beneficial. They also reflect consequences of the limited decision latitude of owner-managers and workers in these enterprises, where their inadequate arrangements for OSH result from their weak and dependent positions at the ends of product and labour supply chains. Here their failure to manage OSH effectively is not solely the result of relations within the enterprise, but is also created by their need to comply with the contractual requirements for price and delivery determined by economically powerful third parties. Further complications arise from fragmented management structures in multi-employer worksites where MSEs predominate in the lower tiers of supply chains and are most remote from the influence of OSH management strategies developed by principal contractors.

Regulatory scholars argue that to address these situations modern regulatory compliance strategies should seek to combine face-to-face inspection with a host of additional strategies to extend reach and influence. These include not only making surveillance more risk-based, going up-stream in the inspection/supervision of supply chains, and broadening surveillance of multi-employer work organisation in sectors like construction, but also focusing more on advice and guidance, and using infrastructures, actors and procedures within the social and business environments of MSEs to 'cascade messages to hard to reach' duty-holders. There is some evidence that labour inspection authorities in many EU countries are at various stages in the adoption of such approaches. At the same time, it is possible to find regulatory agency policies that advocate the use of 'co-ordinating strategies' involving intermediaries, including players whose main purpose is not OSH, in order to create and lead more orchestrated efforts to achieve compliance with OSH requirements from multiple duty-holders. Thus, they seek to shape the governance of the business environments of MSEs in ways in which incentivisation of appropriate arrangements for OSH become strong business drivers.

Putting these two groups of research findings together prompts several further understandings concerning what works in relation to OSH in MSEs. Firstly, the findings on 'what works' in terms of intervention in MSEs provides strong evidence that the role of intermediary actors and processes are important. Secondly it further shows that face-to-face contact with change agents is by far the most effective way of bringing about a successful intervention. While the use of more arms-length methods may have some merit, they are nowhere near as effective as those that reach out to owner-managers in MSEs in ways that include some form of personal contact with change agents, whoever they might be. Unfortunately, it also shows that such approaches tend to be among the more resource intensive and this is therefore a limiting factor in relation to reach, transfer and sustainability. To overcome this, co-ordinated approaches in which several key players and processes are involved in more orchestrated actions in which support for reach, sustainability and transfer are embedded have been suggested as possible solutions. Therefore, the link between what is seen to work in studies of intervention in OSH and the research that points to the need for smarter regulatory strategies to address the consequences for OSH compliance created by the changing world of work in Europe is fairly obvious. It is no great surprise that recent major research studies on what works in supporting OSH in MSEs have concluded on this note, and stressed that the implications of these findings for organisations that are in pole positions to provide the necessary leadership and co-ordination of such orchestration are considerable (EU-OSHA, 2018a). As well as regulatory agencies and other public bodies with an interest in OSH, these organisations include those that have key roles in policy and practice around prevention, such as are held, for example, by organisations representing professional interests in OSH, as well as employment-based insurance associations and the like, but most significantly for our purposes, it also includes organisations representing capital and labour.

This requires some pause for reflection concerning these latter organisations, and especially trade unions, since it is their role in particular on which the present research is especially focused.



1.2 Trade unions and the safety and health of workers in micro and small firms

Trade unions are indisputably important in the protection of workers' safety and health and represent a potentially powerful support for OSH in all work scenarios. The traditional basis for providing this support is through their representation of the collective identity of labour. Through articulation of this identity of interest in work and employment issues, they are able to mobilise workers around particular foci, not only those concerning pay and conditions but also around collective resistance to other effects of work on workers, including those on their safety, health and well-being. Indeed, matters of safety and health featured prominently in the early histories of trade unionism in many of the hazardous industries with which the origins of trade unions are strongly associated. This capacity to mobilise collective action is also the source of the power of trade unions, since it represents a challenge to the economic power of capital and a potentially serious threat to production and profit.

Of course, trade unions are nowadays embedded within the fabric of democratic societies in all the Member States of the EU and engaged in a multiplicity of actions and activities covering a host of social and employment related matters and beyond, including many that are relevant to the safety and health of workers in micro and small firms. But at a more fundamental level it remains the balance struck in the powerplay between capital and organised labour which has enabled trade unions to engage in a wide variety of unilateral, bilateral and tripartite actions to promote workers' interests in safety and health, including many in which they co-operate with both capital and the state to develop regulatory and other protections for workers' safety, health and well-being across all sectors of the economy and at regional, national and global levels. The ability to mobilise workers to take (or threaten) collective action to further their interests remains fundamental to their power and, for a host of obvious reasons to do with communication, organising and collective identity, their strategies in this respect have traditionally enjoyed greater success in relation to workers in larger organisations than in smaller ones. And this remains the case today. It is far more challenging for trade unions to organise among workers in MSEs than it is for them to do so in larger organisations, as the workplace size-related distribution of union membership makes plain.

Nevertheless, trade union representation of the collective interests of workers on their safety and health in MSEs does occur. As we will explore in this report, it does so in a number of both direct and indirect ways and through the use of strategies that depart from the more conventional forms of organising and representation associated with larger firms. One of our central aims is to explore the range and effectiveness of these approaches to improve understanding both of the processes that contribute to such effectiveness and what constitutes its contextual determinants. In so doing, we also hope to explore the potential of trade unions and their strategies for representing the OSH interests of workers in MSEs to contribute to the co-ordinated actions that recent research suggests may be the way forward for supporting improvement in OSH arrangements and outcomes in these enterprises in Europe.

At the core of this report, therefore, are findings that analyse the effectiveness of the visits of trade union supported peripatetic worker representatives to micro and small firms to advise both workers and their employers. Such arrangements are present in several EU countries such as Sweden, Italy and Spain, where a mix of regulatory and voluntary supports enable their operation. Our aim in exploring the operation of such arrangements, however, is also to identify what limits their transfer and sustainability. The schemes we have explored appear to exist only in a minority of EU Member States and we think it is important to understand why this is so. Consequently, in the course of the following chapters we explore the reasons why such practices occur, for example, in Sweden, Spain and Italy, but not to the same extent in the UK and seemingly not at all in Poland. Through this analysis we will address a further key aim of the present study, which is to discuss what in practice acts to limit the transfer and sustainability of such approaches, whether it might be feasible to address such limitations and what policies and actions would be required to extend the relevance and reach of these initiatives more widely in the Member States of the EU.

However, we further acknowledge that these examples, important though they may be, are but one of the ways in which trade unions attempt to address and support the safety and health of workers in MSEs. We have also sought to identify and assess some of the other strategies they use to achieve this in the countries we have studied. Doing so requires prior acknowledgement of the position of workers within MSEs for, as we have already indicated, not only are they remote from the conventional organising strategies of trade unions, but both they and their employers are often surrounded by a multifaceted poverty of resources for OSH that are the result of their market positions and business relations. Therefore, our starting point here has been



to regard them as likely beneficiaries of strategies that trade unions and other similar supportive organisations use to help vulnerable workers in these scenarios. There are, for example, joint structures to support workers and employers in small firms with advice, information and training in which there is engagement of trade unions in several EU Member States. Interventions higher up supply chains have also been employed by trade unions in sectors such as transport, textiles and construction, both nationally and globally, to influence the working conditions experienced by workers in the micro and small firms that are often situated at their ends. All of these examples have already been shown by the literature to be successful, and we explore their extent and that of other similar initiatives in which trade unions are involved in one way or another in the countries we have studied.

In all of this, a key feature of trade unions which we regard as important and significant is that, despite the reduction of their membership and power in recent decades, they remain a ubiquitous presence across most sectors of economic activity in the EU. They are, therefore, a potential conduit and support for the more concerted and co-ordinated actions around supporting OSH in micro and small firms that have been suggested to be required in the future in recent policy orientated research. As such, in terms of the sustainability of actions to support OSH in MSEs, they are potentially very important indeed, and their engagement centrally in whatever public/private regulatory mixes are employed by governance to take forward such improvement is crucial. In the following study, therefore, we have focused on ways to increase and extend this support to protect the growing proportion of workers in MSEs for whom traditional approaches to organising labour are less relevant or effective.

1.3 Structure of the report

Following from the rationale outlined in previous sections, Chapter 2 provides a brief account of the methods used in the present study. Essentially, we have adopted a qualitative case study approach to our analysis, in an indicative study which aims to inform policy. This has certain strengths but also some limitations, which we acknowledge in Chapter 2. The chapter also further develops the rationale behind the study that is outlined in this Introduction. In particular, it focusses on further exploration of the features of intervention in OSH in MSEs and on the important roles played by intermediaries in these processes. In so doing it explores the role and potential of the social partners and offers some theoretical positioning of the study within wider understandings of the labour relations of OSH.

The methods chapter is followed by a review in Chapter 3 of some of the key elements of current knowledge that help us to understand why trade union strategies to influence OSH arrangements and outcomes in MSEs are important. It begins with a brief account of the key features of OSH in MSEs in the five countries we have studied, including indicators of both their economic and OSH performance, and the influences on OSH that are the result of the position of MSEs in the economy, as well as regulation, market and business practices. This takes account, for example, of knowledge on size-related inequalities in the distribution of risk; of the limitations of data; and of features shared by owner-managers and their workers which, in combination with those of the market and regulatory contexts in which MSEs are situated, help to create the 'structures of vulnerability' sociologists have long associated with work in MSEs. This leads to the development of the theoretical perspectives taken in the present research in which we offer an elaboration of the explanations already outlined in this Introduction for why we think trade union prevention agents (TUPAs)¹ are important and why trade unions more generally represent a significant and substantial resource to support improved OSH arrangements and their outcomes in MSEs. This helps situate the schemes we have studied in detail in the present research in relation to those with similar features that have operated in the recent past in other countries included in this study, such as the UK, as well as in relation to similar schemes elsewhere, such as in Norway, Denmark, France and Australia.

Next, we turn to the empirical findings of the present study and Chapters 4 to 7 present accounts of key features of the schemes in which trade union prevention agents are active in Italy, Spain, Sweden and the UK. Each chapter first outlines the position of MSEs in the economies, the evidence on OSH outcomes and the relevant features of labour relations in each country. They then each consider the evidence of present

¹ These trade union prevention agents are referred to by various different names in different countries. For example, they might be territorial health and safety representatives in Italy, regional health and safety representatives in Sweden, roving health and safety representatives in the UK and so on. For the sake of clarity and simplicity we have adopted the acronym 'TUPA' to signify them in all the countries we have studied.



and past actions involving TUPAs. They discuss the regulatory/voluntary background to these schemes as well as their development and the literature (where it exists) that has already analysed the extent of their activities and effectiveness.

The review presented in each of these chapters sets the scene for the further analysis we present in Chapter 8 which focuses on the features of the schemes in Italy, Spain, Sweden, and the UK, highlighting those that contribute to the successful actions of the TUPAs studied. Taking a comparative analytical focus and drawing on the case studies of practice, it compares and contrasts the operation of past and current schemes in the four countries, analysing evidence from the qualitative case studies concerning the forms TUPAs take and their actions on OSH in MSEs in order to present an understanding of both the formal parameters of their operation and how they work in practice. The chapter therefore explores features of their operation, identifying significant elements they have in common as well as differences between them. The aim is to identify patterns in the arrangements for the tasks that TUPAs perform, as well as the support they receive to enable this – for example, in the role of: time off to undertake functions and receive training etc; the provision of information; and rights to undertake inspections, investigations, make representations, respond to unsafe work situations and so on. TUPAs' perceptions of their key activities in supporting and promoting OSH within the MSEs they visit are compared, as are the forms of such support and the effects it is perceived to have. A key question the analysis in this chapter seeks to address concerns the mode of action of TUPAs. For example, do they behave in ways that can be understood in terms of the actions of worker representatives, or are their actions better explained in terms of the delivery of OSH expertise, facilitated through the contribution of external trade unions to this process. It is important to be clear about these distinctions because they are significant to the ways of understanding both the effectiveness of their actions and what determines it, as well as being a necessary basis for analysing the policy implications for their role in wider efforts to achieve more co-ordinated support for OSH in MSEs. The chapter also seeks to explain the contexts in which TUPAs occur and what shapes them. The key question here concerns the identification of the contextual determinants of the existence of such arrangements, and to understand, in a comparative sense, why it is that they occur in some sectors and in some countries but not in others. The chapter therefore considers and compares the institutional basis of schemes – for example, whether they exist as the product of legislative requirements, collective bargaining, or as the result of some other means. It seeks to understand the labour relations and business contexts in which the actions of TUPAs occur and how these contexts influence such actions, including the role of management style and commitment in MSEs towards facilitating or obstructing external supporting actions, and the effects of sector, size and business practice on TUPAs' actions in the cases studied.

Chapter 8 also takes a wider comparative focus and discusses the effects of changes in the way in which work is structured and organised on both the practice and perceived outcomes of TUPAs. In particular, this discussion seeks to understand what, if any, are the perceived effects of business relations outside the workplace on the actions of TUPAs and their outcomes. For example, what are the effects of the price and delivery demands of principal contractors on subcontractors? And more generally, how do TUPAs address 'upstream effects' of economic/business relations in the more porous enterprises that characterise modern economies? The aim here is to understand the role of TUPAs in relation to the acknowledged shift away from traditional bilateral employment relations to the more complex influence of third party interests that is a prominent feature of the experience of work in many MSEs, and to assess whether these changes have a significant impact on this role.

Following on from this wider focus, the further aim of Chapter 8 is to examine the evidence of the study concerning what happens in situations in which there are no (or only very limited) TUPA systems in place. It therefore explores what other forms of trade union actions have also been identified in the study that are aimed at supporting the representation of workers' interests in small firms. It examines in which contexts they might occur and what shapes them, for example seeking to establish if they are a product of collective agreements, or tripartite arrangements, or solely the initiative of unions. What are their labour relations and business contexts? How do these contexts influence actions? Where are these actions perceived to be most successful? The aim here is to explore whether there is evidence of a wider or more varied role for trade unions as intermediary actors in supporting intervention processes in MSEs. In so doing, in addition to drawing upon the evidence from the cases in four countries in which there are, to varying degrees, schemes involving TUPAs, the discussion draws on material from a fifth country, Poland, where we found no significant signs of such schemes being operational. This has been done in order to provide a further perspective, in



this case, on obstacles confronting the possible transfer and development of such schemes in the EU more generally.

In the final chapter of the report, the various themes of the analysis of the previous chapters are summarised and drawn together and some conclusions presented concerning the general contribution to preventive OSH made by TUPAs (or other external trade union actions) in the countries studied. In Chapter 9, therefore, our conclusions concerning the key features explored in the previous chapters concerning the nature of TUPAs and their contributions to OSH in MSEs, how they operate, what determines the nature and effect of their actions and the contexts in which they take place in the countries studied are presented. The chapter seeks to place the evidence of the present research in the wider contexts of current knowledge concerning 'what works, where and for whom' in supporting improved arrangements for the safety and health of workers in MSEs and explores its implications for policies on these matters in the EU at the present time.



2 Methods

This study involved a qualitative investigation of experiences of trade union support for OSH in micro and small enterprises. The fieldwork was carried out by an international consortium of European researchers in five EU Member States. The following pages outline the design and methods that were employed to undertake the study.

2.1 The focus of the study

The study focused on experiences of trade union support for interventions aimed at improving OSH in MSEs in Italy, Spain, Sweden and the UK. We also sought evidence from Poland concerning wider determinants of support and obstacles for the development of such schemes. The countries were deliberately selected to represent both the range of supportive initiatives organised by trade unions in relation to workers in MSEs, and also a range of differences between Member States in, for example, their systems for regulating and supporting occupational safety and health in relation to MSEs, their economies and the position and role of MSEs within them, as well as differences in the situations of trade unions, and the institutions and processes of labour relations. Thus, Poland was chosen as a country that is fairly typical of Central and Eastern EU Member States that have transformed their economies from planned to increasingly mixed and free-market models in recent decades. Spain and Italy were regarded as fairly typical of Southern/Latin Member States in terms of their approach to regulation, labour relations, OSH systems and the position of MSEs in the economy, while Sweden was selected to represent Scandinavian models in these respects. The UK was chosen because of its own special features of interest in relation to the role of MSEs in the economy, and styles and institutions of labour relations, regulation and OSH.

The reasoning for the selection was therefore based around a set of postulates concerning possible differences in *regulatory cultures, labour relations, the economy and the character and arrangements for OSH management in enterprises*. Such differences have been observed in previous studies and concluded to be not solely the consequences of regulatory style, but the result of a combination of wider factors that include regulation but further embrace organisational cultures and labour relations, as well as wider economic and political features, and the situation of MSEs in relation to all of these. The results of a previous analysis (EU-OSHA, 2013) were suggestive of these possible differences, as were the findings described in the recently published review of OSH in MSEs in the EU (EU-OSHA, 2016).

The empirical investigation that is presented and discussed in the following chapters explored experiences of the operation of arrangements to represent workers' interests in OSH in MSEs each of the countries studied and the factors that supported or constrained it. This was undertaken in particular in relation to the operation of schemes in which *trade union prevention agents* (TUPAs) act as change agents and intermediaries through face-to-face contact with employers and workers in MSEs. The analysis was intended to allow some comparisons to be made of the contextual determinants of effective interventions based on representative participation in OSH in MSEs in the countries studied. This in turn was intended to support reflection on questions of transfer and the sustainability of effective models of engagement with the protection of workers' safety and health in these enterprises more widely in the EU. We have also explored *trade union prevention actions* in a wider sense, since we wish to explore how trade unions go about supporting the OSH of workers with more general actions in support of the interests of workers in MSEs and related work situations in the five countries.

Since the aims of the study included exploring the processes whereby interventions impact on relations between institutional actors involved in the labour relations of workplace safety and health – in this case in MSEs – the research methods used were those normally adopted by qualitative case studies. Case studies are generally employed in the social sciences when understandings of the quality of processes and relations are required. They allow the collection and analysis of data from several inter-related sources. While they may have some limitations in terms of representativeness, generalizability, reliability and validity (Flyvbjerg, 2006; Starman, 2013; Yin, 2003), these limitations are commonly moderated by triangulation techniques using multiple data sources or methods and by examining different perspectives on the same process/relations to allow theoretical saturation (Eisenhardt and Graebner, 2007). The methods of the present study also followed this practice. We therefore emphasise here that a case study approach is not a



quantitative study and neither its aims nor results can be validated by techniques applied in respect of such studies.

Ideally in case studies, multiple perspectives on the same set of processes are obtained from a variety of sources. To do this effectively, multiple approaches to data collection are used, including not only interviews, but also the collection and analysis of documentary material, as well as site observations during field visits, that can support the full development of a nuanced, contextual view of reality which helps uncover the complexities embedded in the multi-faceted processes under investigation. The following pages outline the ways in which these methods were employed in the present study through a series of interlinked work packages.

However, it is important to remind the reader of some caveats. The study has gathered information using purposive sampling techniques among key informants. It aimed to achieve indicative findings and it is therefore acknowledged that further research may be required to add power and substantiation to these findings. Nevertheless, the research adds substantial knowledge of forms of intervention in which trade unions are involved in OSH in MSEs which, until now, have enjoyed a comparatively low profile in the burgeoning literature on interventions on OSH in MSEs more generally.

2.2 The research team

Reflecting the comparative nature of the research, the research team comprised partners from institutions in the countries that were the focus of the project. The team was co-ordinated by the Instituto Sindical de Trabajo, Ambiente y Salud (ISTAS) in Spain and included research partners from the Cardiff Work Environment Research Centre, at Cardiff University in the United Kingdom, the Fondazione Di Vittorio, in Italy and NSZZ ‘Solidarność’ in Poland.

The methodological approach to the project was designed to maximise the effective deployment of the expertise within the research team. This involved the participative development of the detailed methodology by the whole research team through two workshops held in Madrid and Rome, along with several meetings via Skype and email exchanges of drafts of the research protocols and fieldwork instruments. As described in the following sections, a collaborative, developmental approach to the research design and delivery was central to the effective completion of the study.

2.3 The work packages

The project was divided into four work packages, which are described below.

2.3.1 Work Package 1 — A literature review and identification of current and previous trade union initiatives supporting OSH in MSEs

There were several elements to this activity which were undertaken in parallel. Using an agreed study protocol, a review of the research literature concerning the national contexts in which trade union initiatives involving participative approaches to intervention on OSH in MSEs was undertaken in all the countries studied. Online sources of both academic and grey literature were searched and relevant material was reviewed in the usual way. In addition, a limited number of interviews were undertaken with key informants at the national level. The aim of this activity was to ensure that information concerning the features of national socio-economic systems and the roles of micro and small firms and trade unions within them, was gathered and analysed. The information sought included:

- *Country size and economy* — including features of the labour market and the structure and organisation of work most relevant to MSEs, the extent of restructuring of work, trends in preferred business processes, the role of value chains and other relevant aspects of work restructuring and re-organisation.
- *Role of small and micro firms in the economy* – the extent of micro and small firms in the economy, the sectors in which they have a major presence, data on injuries and ill-health by firm size, data on the extent of trade union density and its distribution in MSEs, and exemptions of MSEs from regulatory protections – including the provisions for worker representation on OSH.



- *The labour relations context of OSH and OSH management in MSEs* — key features of labour relations systems, such as: the extent and form of trade union penetration; the role of workplace representation; national, sectoral and local arrangements for social dialogue; the position of OSH in trade union and employers' organisation policies; the support provided for directly informing and consulting with workers in workplace relations; and major changes in these factors, especially those in response to labour market changes.
- *The style and character of the national regulatory regime for OSH and OSH management, in particular for MSEs* — the origins and character of the provisions made for OSH management in MSEs and worker participation in this, including through TUPAs; the length of time such approaches have been embedded in the style and character of the regulatory systems for OSH; national infrastructures for general OSH support (such as the availability and competence of OSH services, training and information provision) in as far as they aim to support MSEs' OSH, OSH management and worker participation in this; and activities by unions and others to support OSH in MSEs in the new economy.

Draft reports produced as a result of this exercise describing the initiatives adopted by trade unions in supporting OSH in MSEs in each country and their background and contexts were presented and discussed at the first research workshop, which was held in Madrid in March 2017. Emergent from this workshop was a further study protocol which was the basis of Work Package 2 and is discussed below. However, review of literature in relation to each of the national studies continued in the further development of Work Package 1 during the parallel delivery of Work Package 2 in order to provide a better understanding of the contexts in which the identified trade union initiatives took place.

2.3.2 Work Package 2 — Fieldwork studies in five countries

Ethical approval for fieldwork methods and the confidentiality of the data gathering process was obtained by national partners from relevant institutional ethics committees. Fieldwork interviews and other data collection activities were all undertaken between March 2017 and February 2018 by members of the research consortium in the five countries studied. Interviews were arranged with the assistance of trade union officials and other key gatekeepers.

As previously mentioned, it was clear at the outset of this study that there were two different orders of activity relevant in relation to trade union initiatives on OSH in MSEs:

- Those involving face-to-face interventions of TUPAs in representing the interests of workers in OSH in MSEs
- Those more general and related strategies and actions of trade unions to represent the interests of workers in OSH in MSEs and related work scenarios

For the former, a qualitative empirical field research methodology was adopted, which is presented in detail in this chapter. However, the Swedish study was also able to use the unions' extensive quantitative and qualitative yearly reporting of the regional safety representatives' activities, including short case descriptions of their interventions. For the latter, literature sources and interviews with key informants were employed.

Fieldwork methods were based on the study protocol developed as a result of the workshop in Madrid, as outlined above. In relation to TUPAs, in order to describe their form and supporting actions for OSH in MSEs and how they work in practice, information was sought addressing the following research questions:

- In which contexts do TUPAs occur and what shapes them?
- What is their legislative basis in provisions and/or in collective agreements and so on?
- What are the labour relations and business contexts in which these actions occur? How does this context influence such supporting actions, and in which MSE contexts are these actions perceived to be most successful?
- What is the role of MSE management style and commitment in facilitating or obstructing such external supporting actions?
- What is the influence of size (self-employed, micro and small firms) and sector/industry on the presence, form and effectiveness of TUPAs to support OSH in MSEs?



- What is the experience of TUPAs of the specific arrangements for their tasks (e.g. the role of time off to undertake functions, receive training etc., provision of information, rights to undertake inspections, investigations, make representations, respond to unsafe work situations etc.)?
- How are MSE workers (or their representatives) involved in the process of TUPAs?
- What is the nature of the relationship between MSEs' institutions for worker representation/participation on OSH – including TUPAs – and institutions for representation/participation on other matters?
- How do TUPAs support and promote worker participation on OSH within MSEs? What forms does such support take and what are their effects?

Efforts were made to focus on sectors in which MSEs were a significant presence, such as in construction. However, there was no systematic effort to seek to compare experiences between the same sectors in different countries. Generally, researchers were led by information from key informants as to where TUPAs were to be found in each country and this informed the approach to purposive sampling followed in the research. It nevertheless resulted in a focus on generally similar sectors across the four countries in which they were evident.

Selecting key informants

As the trade union agents for prevention are, in most countries, the result of collective bargaining at local level, key informants were identified who could provide information on:

- the general view of the experiences and development of schemes involving TUPAs
- in-depth information on selected relevant experiences.

To further contextualise this information, relevant and available quantitative data from official sources on the area or the sector where the experiences were situated were also examined.

The number and nature of key informants contacted varied according to the particularities of the national situation, but in general between 15 and 20 respondents were interviewed in each country. In all cases, they included trade union officials at national and regional levels, regional public authorities, trade union experts on OSH, trade union preventive agents themselves and, where possible, employers' organisations and those representing the business interests of MSEs, as well as employers' regional representatives and employers and workers of small firms involved in the experiences.

In Italy, empirical research was based on participation in trade union general assemblies (including the CGIL-CISL-UIL national assembly² of OSH union representatives in Marghera and the CGIL regional assembly in Rome), a seminar on OSH with the territorial OSH representatives of the artisan sector in Florence, a focus group (with 4 representatives at productive site level), and in-depth interviews with: an occupational doctor, 3 OSH representatives at territorial level in the artisan sector and 3 in the building sector, 3 trade unionists, 2 employers in the artisan and building sectors, a representative of the local health services in Rome, a spokesperson for the National Bilateral Joint Body in the artisan sector, and 2 representatives of the regional Joint Bodies in the building and agriculture sectors.

In Spain, as well as key informants at the national level, others were selected from the four Spanish regions and sectors in which arrangements for TUPAs were explored in greater depth. These included programmes operating in Asturias, Madrid, Castilla y León and Castilla-La Mancha. They were selected following a mapping exercise to identify existing practices involving union agents visiting MSEs. The mapping exercise was undertaken with the help of a mail survey and several short telephone interviews with trade unionists in charge of OSH at territorial or federal level within one of the two main Spanish union confederations – the CC.OO. For each case study, three main sources of information were used: 1) research and grey literature on the special characteristics of the region; 2) documentation on public policy declarations, collective or social partner agreements, and funded projects; 3) in-depth interviews with selected key informants. The latter included: 5 territorial TUPAs, 4 sectoral (building and forestry) TUPAs, 8 trade unionists, including 7 from CC.OO. and 1 from UGT, 3 representatives of employers, 4 representatives of local labour authorities

² The three main trade union confederations in Italy are – Confederazione Generale Italiana del Lavoro (CGIL), Confederazione Italiana Sindacati Lavoratori (CISL) and Unione Italiana del Lavoro (UIL).



(Asturias and Castilla-La Mancha) and a senior representative of the labour inspectorate in Asturias. For the interviews, a common interview schedule was used. Conversations with the interviewed persons were recorded, with their permission. In some of the case studies, it was possible to accompany TUPAs during their visits to MSEs.

In Sweden, interviews were undertaken with representatives of trade unions, employers' organisations (with membership including MSEs) and other key informants on relevant labour market issues. Trade union participants were selected at the union confederation level from trade unions in three industries where MSEs were abundant: construction, transport and hospitality. Work environment officers in these unions were interviewed, as was a regional safety representative in the construction sector. The latter was accompanied on some site visits.

In the UK, the development of current schemes involving TUPAs comparable with those found in the previous three countries was limited. For this reason, the UK case study focused on providing an account of examples of such schemes that had existed previously. Interviews with key informants among unions, employers' associations and other associations representing the business interests of MSEs were undertaken in order to explore the reasons for their discontinuation.

Similarly in Poland, investigations quickly concluded that current practices to support preventive arrangements for OSH in MSEs did not include any involving TUPAs. For this reason, it was decided not to include Poland as one of the case study countries, but rather to focus on the contextual determinants of trade union support for TUPAs. This was done using literature sources and interviews with key informants in Poland. This has this report to examine how, in the Polish context, these contexts have not allowed the development of support for TUPAs.

2.3.3 Work Package 3 – National analysis

The practice and contexts of the trade union initiatives were analysed separately for each of the four countries in which such initiatives were found. Detailed nationally based accounts were finalised for each country and circulated among the research consortium. Presentations of key findings were delivered at the second consortium workshop, held in Rome in May 2018. In each country, as precise an account as possible is presented concerning the existing relevant experiences, and an assessment made of how developed they are, as well as of their relevance and effectiveness. The aim of the five national reports was to present an exploration of TUPA activity in the country and an analysis of its effectiveness. Such analysis adopted methods used in qualitative case study research, such as those outlined in section 2.1.

In all the countries studied the research team sought to explore the evidence of effectiveness, sustainability and transferability of schemes involving TUPAs. This was clearly possible for the three countries in which such schemes are well established, but as described in section 2.3.2 above, the prior understanding of the research team was that in at least two of the countries included in the study, the presence of such change agents was limited or non-existent. Part of the reason for the selection of these countries was to seek to understand why schemes involving TUPAs exist in some national contexts but not in others. That is, to explore what are the wider contextual determinants of these schemes in different countries.

To an extent, the research focused on trade union strategies and actions to support workers' safety and health in the face of contextual challenges in all the countries in the study. Analysis sought to understand how changes in the way in which work is structured and organised affected both the practice and perceived outcomes of schemes in which TUPAs were involved, as well as to explore what other forms of support and action trade unions were able to provide in order to represent the interests of workers in OSH in MSEs. Hence, in each country, the research addressed primarily the actions of *prevention agents* of trade unions, but also in a wider sense, it took account of the *prevention actions* of trade unions. In the latter case the research sought to address questions concerning the possible effects of business relations outside the workplace. It explored, for example, perceptions of the effects of price and delivery demands of buyers of goods or services on TUPAs and other external support, as well as internal worker participation in MSEs and the effects of the requirements of principal contractors on subcontractors. It also more generally considered how trade unions address 'upstream effects' of economic/business relations in the more porous enterprises



that characterise modern economies. More specifically it sought information addressing questions concerning:

- the role of collective agreements or tripartite arrangements, and the initiative of unions in shaping them
- their labour relations and business contexts and how they influence such supporting actions, as well as where these actions are perceived to be most successful
- the influence of size (self-employed, micro and small firms) and sector/industry on the presence, form and effectiveness of these actions to support OSH in MSEs
- how MSE workers (or their representatives) are involved in these initiatives

Finally, the research provides an assessment of how significant the general contribution to preventive OSH made by TUPAs (or other external trade union actions) is in each country. Because of the variation in the presence of TUPAs as agents in the national schemes supported by trade unions in relation to representing the interests of workers in their OSH in MSEs, there were wide differences in the quality of sources of evidence concerning their effectiveness. Therefore, an indicative approach has been taken to evaluating this evidence as it is not possible to make strictly defined comparison based on available empirical data. Nevertheless, the effectiveness or otherwise of the role of TUPAs was clear from these indications in all the countries where they were present.

2.3.4 Work Package 4 – Comparative analysis

The final work package was the comparative analysis presented in this European report which includes summaries of the key initiatives in each country, as well as a comparative thematic analysis of the similarities and differences between these initiatives and their contexts in the countries studied. It used a thematic approach to identify common patterns, similarities and differences among the countries, sectors and establishment size bands covered in the study. The intention was two-fold: first, to identify the key issues emerging from the national research; and second, to be clear about the key comparative issues for the overarching analysis conducted in the study. Throughout the report we have adopted realistic evaluation methods (Pawson and Tilley, 1997; Pawson, 2006), focusing on the variables of the conceptual framework, in order to allow comparison of the experiences of the different countries.



3 Trade unions and occupational safety and health in micro and small enterprises: a review of the literature

This chapter seeks to explain why trade union strategies to influence OSH arrangements and outcomes in MSEs are important. It does so by firstly providing a brief account of the position of MSEs in the EU economy and the arrangements and outcomes for OSH in MSEs in the five countries we have studied. It also reviews some of the findings of recent research concerning features of MSEs themselves, and especially those of their owner-managers, and the social, regulatory and market contexts in which they are situated, which together go some way to explain the limited arrangements many MSE owner-managers make for the safety and health of their workers. This recent research, in which some of the authors of the present research were centrally involved, is the subject of several detailed reports that collectively represent the most substantial review of OSH in MSEs in the EU available to date (EU-OSHA, 2016, 2017a, 2017b, 2018a, 2018b). We therefore have reason to make frequent reference to it in the following pages. This said, we have supplemented these sources with more focused review in the countries we have studied, as well as in relation to the trade union initiatives and their contexts with which the present research is specifically concerned.

This chapter also explores size-related inequalities observed in the distribution of occupational safety and health risks in MSEs, which contribute to the ‘structures of vulnerability’ that sociologists have associated with work in these enterprises (see Nichols, 1997). Strategies to support workers’ safety and health in MSEs clearly need to take account of these determinants if they are to be effective. Key players in providing such support and influence, whether public regulatory agencies, occupational safety and health prevention services, employment insurance associations, employers’ or trade organisations, powerful business partners or trade unions and their agents, all occupy different positions of influence in the social, economic and regulatory environment in which MSEs and their workers are situated. Consequently, the nature of their relations with these enterprises and their workers are also different and, following from this, so are the forms and focus that their influence on OSH might take. These are important considerations that need to be taken into account in strategies for effective intervention to support workers’ safety and health. This is no less true for the strategies of trade unions than for the interventions of other intermediaries.

The chapter, therefore, reviews current understandings concerning the challenges for safety and health in MSEs with a particular focus on their implications for trade union strategies to support workers’ safety and health. In so doing, it takes as its point of departure the theoretical perspectives outlined in section 1.2 of the Introduction to this report concerning why TUPAs (both the agents and the actions of trade unions) may be important in supporting improved OSH arrangements in MSEs and why trade unions are a significant resource in this respect. In particular, it explores these contexts in relation to previous literature on schemes in which trade union prevention agents have been active in Sweden, Italy and Spain and, to a lesser extent, in the UK. The chapter considers the significance of the regulatory/voluntary background to these schemes, as well as their development, activities and effectiveness. It also situates these schemes in relation to those with similar features that have operated in the recent past in other countries, such as Norway, Denmark, France and Greece. While it contains relevant material, much of this literature is comparatively old. The review in this chapter, therefore, sets the scene for the further and more recent description and comparative analysis we present in subsequent chapters that are based on our current empirical findings.

3.1 Micro and small firms in the EU and the challenge for workers’ OSH

Micro and small enterprises (i.e. those enterprises with fewer than 50 workers) account for nearly 99% of enterprises in the European Union and employ nearly 50% of EU workers. While there are minor variations in the role of MSEs in the economies of the countries included in the present study, they are of substantial importance in terms of their numbers and share of employment in all five of them.

In Italy, for example, the economy is highly fragmented in terms of business size and has one of the lowest average enterprise sizes in Europe. In industry and services, micro enterprises (i.e. those with 0-9 employees) account for 95% of the total number of enterprises and 47.5% of employees; and in 2013 average business size was roughly 3.7 employees (slightly below the average of 3.9 for the whole economy). Micro-enterprises are particularly common in the construction and services sectors (accounting for 67% and 54% of employees



respectively) (ISTAT, 2015). They tend to operate mainly in the regional market (63.3% compared with 36% of larger businesses), and the majority are family-run businesses (84.3%) (ISTAT, 2014).

In Poland, The largest component of its economy is the service sector (62.3%), followed by industry (34.2%) and agriculture (3.5%). SMEs constitute 99.8 per cent of Polish businesses and the SME sector is dominated by micro enterprises (firms employing less than 10 persons) to a greater extent than in the EU in general: Polish micro firms made up 95.8 per cent of the country's total number of firms, while the EU average in this respect is 91.8%.³

Spain is also among those EU Member States with lower than average enterprise size. Data from the Social Security registry indicate that over 44% of workers are employed in MSEs. This includes 26.8% and 17.9% of workers employed in micro and small companies respectively (MEySS, 2017a). If the self-employed are excluded, the proportions are 49.4% employed in MSEs, with 29.6% in micro and 19.8% in small firms.

Similarly, Sweden has more small firms than the EU average. Of the 300,000 or so private employers in 2016, 86% were micro and 11% were small firms, employing 22% and 23% of the 2.9 million privately employed workers respectively (SCB, 2015).

In the UK, which has less than the EU average proportion of small firms, MSEs are nevertheless an important constituent of the economy, both numerically and in terms of employment. Growth of employment in small enterprises was a well-established feature of economic trends by the early 1990s, and this trend has continued, with over 99% of the UK's 4.5 million private sector businesses employing fewer than 50 people in 2011 (BPE, 2017).

The importance of MSEs in economic and employment terms, therefore, is widely recognised. However, a range of socio-economic developments in recent decades has resulted in a growing structural vulnerability, forcing a large proportion to adopt 'low road' organisational and business strategies in order to survive. By this we mean that for their business to survive, these firms may be forced to pay their workers low wages, and often use low-skilled labour in insecure jobs in order to compete in low-quality or non-specialised markets in which they maintain a precarious and vulnerable business position with little decision latitude. For example, one key trend much in evidence in modern economies is the lengthening of global value chains, where MSEs are often situated in dependent and less powerful positions than their larger counterparts and where they experience the consequent shift of risks and costs from larger operations on to their own. The burgeoning research literature shows that the related pressure on working conditions implicit in these trends has contributed to the growth of precarious work and a more vulnerable workforce in these MSEs and in related work situations, in terms of insecure contracts, loss of wage benefits, unpaid overtime, and occupational health and safety risks. The increasing complexity of organisational interdependencies further implies a growing disconnection between the employment contract, employment regulation and managerial control, captured under the term 'fissured employment relations' (see, for example, Weil, 2014).

As a result of these developments, many MSEs in the EU, including in the countries we have studied, face a general lack of resources for OSH prevention and adequate OSH management. Workers employed in these firms are likely to experience poor working conditions, low job quality and proportionally greater risks to their health, safety and well-being than those in larger firms. In addition, such developments bring major challenges for the traditional approaches organised labour has used to promote and protect the collective interests of workers, including those concerning their safety and health. As we have already suggested in the Introduction to this report, trade unions have responded in three main ways to these challenges. One response has been to support variations of approaches to representative participation on OSH that are more suited to the needs of workers in MSEs. Another has been to press for improvements in the systems for regulating and governing OSH at all levels, which often benefit workers in smaller organisations as well as those in larger ones. The third embraces a variety of approaches aimed at applying trade union influences at levels beyond those of the traditional contract of employment in order to support workers whose safety and health are affected by the increasing porosity of the boundaries of the employment relationship and determined by the indirect effects of actors and processes situated outside it.

³ See: <https://www.msp.gov.pl/en/polish-economy/economic-news/3710,Investments-of-Polands-small-medium-sized-and-micro-enterprises-in-2012.html>



3.2 Evidence of OSH performance in MSEs

The international research evidence on size-related differences in OSH performance is generally in agreement that ‘small is not necessarily beautiful’, and that there is a greater risk of a serious or fatal injury and (probably) ill-health arising from work in smaller workplaces than in larger ones (EU-OSHA, 2016). The widely accepted conclusion that risk of serious and fatal accidents is inversely proportional to workplace size is drawn from robust analysis of data from the UK manufacturing industry (Nichols et al., 1995). As the national reports in the present study indicate, there is reason to believe that this pattern is also evident in the countries we have studied. For example, in Spain published data reveal that companies with fewer than 50 workers accounted for 49.4% of the employed population and registered 53% of total work accidents and 65% of fatalities in 2015. In terms of size and severity, further analysis showed that fatal accidents are particularly concentrated in companies with fewer than 50 workers, especially micro enterprises (MEySS, 2017b). In Spain, as elsewhere (EU-OSHA, 2016), information on the incidence of work-related ill-health is unreliable and it is impossible to make accurate comparisons in relation to workplace size because of the greater levels of underreporting in smaller workplaces (García Gómez et al., 2017). However, a host of individual studies suggest that it is very likely that poor arrangements for OSH in MSEs will lead to far greater incidence of work-related ill-health in these firms than is reported in official statistics. A similar story is found in Italy, where fatal accidents are concentrated in micro and small enterprises, but where the limitations of reporting make further comparisons problematic. In Sweden, analysis of work-related risks and ill-health by enterprise size has similar limitations. While the regulatory authority has claimed injuries are lower in smaller workplaces, it ignored the issue of underreporting, even though an earlier study by the same authority found that underreporting was far worse by smaller than by larger employers (Bengtsson, 2000). Antonsson et al., 2002, p.18) found that the risk of fatal occupational accident was six times higher in firms with 1-49 employees than in larger ones for the period 1995-1998. Similarly, Bornberger-Dankvardt et al. (2005) found that the risk of non-fatal serious accidents was much higher in small than in larger firms operating in the same industry.

In Poland systematic figures on OSH performance in MSEs are unreliable. However, the limited research literature suggests a significant problem and its under-reporting is acknowledged. Safety on construction sites is for example claimed to be compromised by small construction firms which dominate the market and have high accident rates (Dabrowski, 2015). There is a current National Programme for the Improvement of Safety and Working Conditions. Its scope and implementation methods are claimed to take into account the structure of the economy and the fact that 98% of it consists of small and medium enterprises,⁴ as well as legal measures adopted in order to assist SMEs and micro-enterprises in the implementation of OSH requirements.⁵ Under-reporting is acknowledged to be a significant problem.

Such under-reporting is a widely accepted feature of the documentation of OSH performance in small enterprises in all countries, including those in the present research. Nevertheless, the overall conclusion from the more robust studies strongly indicates an inverse size effect in relation to the incidence of serious injuries and fatalities that is more likely than not to be repeated in relation to work-related ill-health. It follows from this that the work environment may be poorer in these enterprises than in their larger counterparts, although here again generalisability is difficult to demonstrate, as the results of the Eurofound Working Conditions surveys show (Eurofound, 2012). However, here too more sophisticated analysis is possible. The increased risks that result in poor OSH outcomes are generally linked to limitations in the arrangements made for managing OSH in smaller enterprises. Recent review of the literature reveals a complex picture, since MSEs are far from homogenous in their identity and features. The report of the EU-OSHA study, for example, draws attention to differences between those enterprises pursuing what it describes as a ‘high road strategy’ towards their economic and business success and those that are obliged to follow more ‘low-road strategies’ to ensure their market survival. Based on its wide-ranging review of the research evidence, that report further suggests that it is in these latter enterprises, which make up a substantial proportion of MSEs overall, that the poverty of resources, and the influence of their weak market positions, are most likely to result in inadequate arrangements for OSH and a consequently greater incidence of injury and ill-health for workers. The report further suggests that it is also in these enterprises that there may be a relationship

⁴See: https://www.ciop.pl/CiOPPortalWAR/appmanager/ciop/en?_nfpb=true&_pageLabel=P26400121511406886174136&html_tr_esc_root_id=300008569&html_tresc_id=300008553&html_klucz=300008569&html_klucz_spis=

⁵See: Evaluation of EU Occupational Safety and Health Directives: Country Reports: Poland: ec.europa.eu/social/BlobServlet?docId=17121&langId=en_P251



between working conditions and job quality, where possible effects of ‘low road’ survival strategies may impact negatively on the experience of the latter, which in turn may have consequences for both physical health and psychosocial well-being (EU-OSHA, 2016, pp.43-48).

The EU-OSHA report concludes that, for MSEs generally, including many that are quite successful businesses, making the necessary arrangements for OSH remains something of a challenge and both owner-managers and workers need support to do so effectively. Providing this support requires some understanding of the internal conditions under which work and business are conducted in MSEs, and of the nature of those conducting it, as well as of the regulatory and market contexts with which they are surrounded.

3.3 Determinants of OSH in MSEs?

There is now quite a large body of research that documents the limitations of the approach to OSH within MSEs. The following brief summary organises the determinants of these limitations into influences that operate from within the relations of work in MSEs and those that act upon these relations but originate outside MSEs, in their wider social, regulatory and business environment. We acknowledge that this distinction is somewhat fluid and boundaries between the internal/external nature of some such determinants are not quite so clear cut as such a demarcation implies. Nevertheless, we think it a suitable artifice to summarise what is, in practice, a complex reality.

It will be apparent that, while there are many determinants of poor OSH outcomes among the internal influences to which MSEs are subject, as well as in those with which they are surrounded, there are also some elements that help to provide positive influences on OSH in these enterprises. We have, therefore, tried to include these too, especially in our account of the role of regulatory and voluntary intervention among the external determinants of OSH in MSEs. Finally, in a report of a research project that sets out to explore the role and effectiveness of initiatives of organised labour to support workers’ OSH, such a summary is incomplete without some reflection on ways of understanding this reality from the standpoint of workers. Following our review outlining research on the internal and external influences on the arrangements made for OSH in MSEs, we therefore also offer some such reflections.

3.3.1 Internal determinants

Resource poverty

Previous analysis argues that there are a number of features of work and business in MSEs that can be regarded as resulting from multifaceted limitations on the resources available to both employers and workers in these enterprises (EU-OSHA, 2018a). They include, for example, limitations to management resources, leading to owner-managers often performing all the management functions in the enterprise themselves, from marketing and sales, through planning of work, to billing and accounting. The smaller the enterprise the more pronounced this feature. This, compounded by these individuals often not having received any form of managerial education, may result in a low level of general managerial knowledge, which in turn contributes to limited OSH knowledge. In these circumstances, research suggests that OSH management is simply not something to which owner-managers feel it necessary to devote more than minimum time and financial resources. A further consequence is that, by regarding OSH as something that does not merit specific attention, owner-managers also overestimate their own knowledge concerning what actions are required to address it, demonstrating ignorance concerning the need to assess risks and little understanding of how to handle and redress them. In addition, MSEs typically have scarce access to financial resources and are often in a vulnerable position in relation to their larger and stronger customers and suppliers, which exploit their relationship to gain business advantages. Further, many MSEs have limited technological resources. All this may lead to a situation where even those owner-managers who consider themselves to be concerned to look after the safety and health of their workers, are likely to either underestimate or wrongly diagnose both the nature of risk and the means of its effective management. At the same time, and for reasons elaborated further below, in practice the burden of responsibility for doing something to address risks is shifted away from the employer and onto the worker (EU-OSHA, 2018a). Moreover, as a Swedish research review of limitations and misconceptions in OSH management in MSEs found, managers in MSEs understood OSH management to concern documentation of ‘risk assessment’ more than did their counterparts in larger



organisations, but at the same time paid scant attention to the evaluation of its preventive effects, while most MSEs anyway lacked such procedural documents (Frick, 2013a).

The identity of the owner-manager

General resource poverty is one of the most important constraints for OSH management in MSEs (Hasle et al., 2012a) – but it is not the only one. Compounding it is the importance of the autonomy and identity of the position occupied by the owner-manager in these firms. For a host of reasons, these features promote the role of the owner-manager as the key player in decisions concerning the operation of the firm and, as such, in those that affect OSH arrangements and practice. This central role of owner-managers in decision-making in MSEs is distinctive from the situation in larger firms, where other forms of ownership are found, where the owner is rarely involved in daily operations and where management structures are considerably more complex. The key role of the owner-manager is, therefore, frequently highlighted in all types of research on MSEs, where these firms are most often characterised as having an owner (or sometimes a partner-owner) who is also the daily manager(s) of the firm. Indeed, as noted in the recent wide-ranging review of existing research literature on OSH in these firms (EU-OSHA, 2016), the centrality of owner-managers in the affairs of MSEs helps explain why most research on OSH in these firms has focused solely on owner-managers, appearing to regard them as synonymous with the MSE and seldom distinguishing a separate identity for workers in these firms.

Previous research on MSEs more widely has also examined the ways in which the identity of these individuals is formed (Down, 2006; Hasle et al., 2012a; Reynolds, 1991). The majority of owner-managers make their living from their small business and they devote all their work time to it. The business is also often closely integrated with their family lives, not least as family members may also work within it. Research suggests that their identity is therefore shaped by three core elements: a) being an entrepreneur running a business; b) the craft of being, for instance, a carpenter, hairdresser or chef, with which the business originated; and c) the family. The close spatial and social proximity of the owner-manager with both work and family also helps encourage the owner-manager to identify themselves as a decent person taking care of their workers and demonstrating this to the network of workers, customers and other stakeholders with which they are involved. The EU-OSHA study points out that many of the owner-managers of MSEs in the case enterprises throughout the nine European countries it focused on, expressed a generally positive attitude towards maintaining a good work environment, although at the same time demonstrated low awareness of what this actually meant in terms of understandings about requirements concerning occupational safety and health (EU-OSHA, 2018b).

As wider research makes clear, identity is something that owner-managers, like others, are constantly shaping (Sveningsson and Alvesson, 2003; Watson, 2009). With such processes, people construct their understandings of themselves and in so doing create a picture of themselves they find acceptable. In the case of owner-managers in MSEs, this picture is shaped by the social relations between their actions and how others react to them. This partly explains how, in relation to OSH, owner-managers might argue for the need to maintain a high safety standard, while at the same time fail to see the need to take action themselves, instead ascribing responsibility for such actions to their workers. The EU-OSHA study notes how statements emphasising that workers need to ‘look out for themselves’ because the owner-manager cannot ‘watch them all the time’ were frequently made by owner-managers (EU-OSHA, 2018a). Thus, they stated that they aimed to secure a good work environment with no accidents, but they also expressed an acceptance of the risk that accidents may eventually happen. They sought to avoid the risk of being blamed for causing harm to their workers, and so tended to place responsibility with their workers. They typically expressed the view that the workers could ask for improvements and changes in the work environment or for personal protective equipment (PPE) and, in such cases, the owner-managers claimed that they would do as requested, if it were within their economic capacity to do so. As the authors of the EU-OSHA research conclude, not only did this indicate something of the quality of the ad hoc and reactive approach to OSH adopted by owner-managers in MSEs, it further confirmed their low level of knowledge on OSH, as well as of their legal responsibilities in this respect, which they compounded by overestimating their understanding of both the OSH risks and the necessary measures for control (EU-OSHA, 2018a, 2018b). These tendencies have also been reported in previous studies (for example, Fairman and Yapp, 2005; Olsen et al., 2010).



Spatial and social proximity and informality

Further important determinants of the kinds of arrangements made for OSH are found in the spatial and social proximity with which work takes place in MSEs and the informality of its organisation. In many micro firms, owner-managers and workers share the same working facilities, with the owner-manager often working alongside the workers and performing the same work tasks. This spatial proximity tends to imply a social proximity, which may be one important explanation for the tendency towards higher job satisfaction and better psychosocial work environments that is reported in some studies (Sørensen et al., 2007; Tsai et al., 2007). In describing their experiences of work in the MSEs, some workers use terms like 'extended family' when talking about the social relations in their company. This indicates how proximity may open up possibilities for workers to be integrated into a community by being socialised into the company perspective. However, an important consequence of this is that they also often end up taking responsibility for their own safety at work. In the recent EU-OSHA study, workers often ascribed the main responsibility for safety at work to themselves and their co-workers rather than their employers (EU-OSHA, 2018b). This has been found in other studies (Eakin, 1992; Hasle et al., 2012a). Furthermore, social proximity may also mean close monitoring of workers (Eakin and MacEachen, 1998) on the one hand, while exposing the (lack of) competence of the owner-managers on the other (Mallett and Wapshott, 2014).

Proximity obviously varies with firm size: it is closer in micro firms than in larger MSEs. However, the specific organisation of the company can also be influential. For example, workers in sectors such as manufacturing and hotels and restaurants, where owner-managers and workers work together in the same physical location, may be at greater proximity than those in, for instance, construction, where workers in the same enterprise often work on different construction sites. Despite such social proximity, however, research further shows that, for the most part, workers rarely directly challenge the authority of the owner-manager (EU-OSHA, 2018a, 2018b). Indeed, research indicates that close social relations in MSEs act to reinforce the status quo on OSH, in which it becomes difficult for anyone to ask for improvement of the work environment. Such a status quo, however, is often one that arises from the lack of real understanding of the issues concerned, as documented above, but this is reinforced and compounded by shared notions of acceptability and responsibility. Even in cases of serious accidents, there are reports of owner-managers and workers tending to agree that these could not have been avoided, and further agreeing that their main cause was stupidity on the part of the injured worker (Hasle, Kines and Andersen, 2009; EU-OSHA, 2018a).

Organisational informality

Linked to social proximity, informality, or the lack of formal work organisation, is a further common feature within MSEs. Both owner-managers and workers often regard this informality as a basic and desirable feature of their activities, and the way that work is organised in MSEs is often strongly marked by informality (Storey et al., 2010; Wapshott and Mallett, 2015). Informality is seen as giving flexibility, which is a key business strategy for many MSEs (Verreynne et al., 2013). But it also results in an ad hoc approach dominating the organisation of work, which has important implications for the way in which OSH is likely to be managed – an area that, at least in most common understandings, is considered to require a relatively high level of formalisation. Informality is also influenced by the resource poverty described above, since there is a lack of human resources to develop formalised procedures, as well as by spatial and social proximity, which is typically seen by both owner-managers and workers as sufficient to secure daily operations, as they are there to talk them over at any given time (even though, as noted, workers might accept the decision-making authority of the owner-manager). This experience is one of the important reasons for the difficulty of applying a systematic approach to OSH in MSEs, as both employers' and workers' experiences reinforce the idea that formalised procedures are unnecessary, due to the employers' and workers' close proximity with one another. This is strongly articulated in studies of work in MSEs (EU-OSHA, 2018a), not only in relation to OSH generally, but also specifically in relation to worker participation in safety and health matters (EU-OSHA, 2017a).

Of course, none of these 'internal determinants' can be entirely separated from wider, external influences that determine how, when and to what degree they might apply, nor can they be separated from the market position of MSEs, which further strongly influences business strategies and hence the employment situation of the workers in them.



3.3.2 External determinants

Micro and small enterprises do not exist in a vacuum. They are situated in a range of contexts, which help to determine what goes on within them. Three fairly obvious sets of such contextual determinants influence the way in which OSH is understood and acted upon. They are: the market position of MSEs and its influence on their business survival, the regulatory framework and its enforcement, and the accessibility and responsiveness of MSEs to various elements of OSH services, insurance systems and similar facilities with the potential to intervene and support efforts to improve arrangements for OSH.

We outline some key research findings on the nature of these sets of determinants in the following sub-sections. We have done so both in relation to the challenges and support these determinants might offer OSH in MSEs. At the same time, while we have no space in this report to detail them, this account acknowledges that wider economic policies that facilitate or drive dominant market processes at sector, national and EU levels, act to define the extent and direction of such influences on the internal will and capacity of MSE owner-managers to protect their workers' safety, health and well-being. We will have reason to return to the implications of this for policy support for interventions to improve OSH in MSEs in a later chapter.

Market and structural influences

Suggestions that work is becoming more precarious in the economies of most EU Member States are now both well evidenced and widely accepted (Baccaro and Howell, 2017; Doellgast et al., 2018; Grimshaw et al., 2016). It is equally acknowledged that such precariousness is, in part, the result of modern business responses to competitive pressures created by globalisation, in which techniques emphasising cost efficiencies and the outsourcing of risk are now normal business strategies. Increasingly, larger organisations in both the private and public sectors choose to place a greater emphasis on management by 'contracting out' rather than through relying on their own internal hierarchies (Doellgast and Greer, 2007; Drahokoupil, 2015; Marchington et al., 2005). Available evidence suggests that, at the aggregate level, this trend has contributed to a deterioration in working conditions. As David Weil (2011) has argued, the shift towards externalisation has led to the creation of 'fissured' employment relationships in many sectors in which there are large concentrations of low paid workers employed, not exclusively, but substantially in MSEs. In these scenarios, powerful lead firms shape service and product market conditions, while to a large extent separating themselves from the employment of the workers who produce the services and goods for them. Weil argues that, in these situations, the direct employers of workers, often MSEs, operate with limited resources under increasingly competitive market conditions, and are confronted with downward pressures on terms and conditions for their workers.

There is widespread evidence across several sectors that lends weight to Weil's thesis on the way in which processes of externalisation have served to generate adverse employment effects in supplier organisations. International research evidence on the occupational health and safety effects of these arrangements (EU-OSHA, 2016) shows that outsourcing has produced poorer OSH management and outcomes. The research literature is remarkably consistent in this respect and has also shown most of this outsourcing was to smaller firms (Quinlan, Mayhew and Bohle, 2001; Quinlan and Bohle, 2008). Further evidence of these effects can be found in the variety of sectors included in the empirical studies undertaken in the recent EU-OSHA research to which we have already referred extensively. For example, in construction, sub-contracting to smaller firms, and the supply chains in which it is embedded, is a central feature of the way in which work and employment is organised in many EU Member States (Gieskens, 2012; Ramioul, Van Peteghem and Benders, 2016). It operates against the backcloth of often short-term and informal employment, in a sector numerically dominated by small and micro enterprises, but where a substantial share of production is generated by a small number of large firms. For instance, in the UK it has been estimated that approximately a quarter of the construction industry's output is generated by fewer than 125 large companies, each of which employ 600 or more people (HSE, 2009). Such features mean that, structurally, the industry strongly resembles Weil's description of 'fissured' employment contexts. It is, of course, a sector in which both low pay and job insecurity are prevalent, although with greater national variation than many other sectors (Refslund and Arnholtz, 2017). Meanwhile, many studies have identified the widespread use of sub-contracting and its often poor management as important contributors in the occurrence of accidents and associated injuries (see, for instance, Rebitzer, 1995; Johnstone, Mayhew and Quinlan 2001; Dawson et al., 1985; James et al., 2015). Spanish research suggests the construction sector is characterized by the



dominance of a small group of very large companies that act as developers/contractors, with a high degree of cooperation between them. Manual work is outsourced to external, subcontracted, small and micro companies, that face tough competition among them for this work. These small firms hire most of their workers to carry out manual jobs, under atypical conditions, involving temporary positions⁶ and, in particular, self-employment. This model thus gives the larger companies access to a secondary labour market, and sometimes even to the extensive informal labour market. Workers operating through such subcontracting are isolated from secure, stable employment and rotate between jobs and between firms; these workers suffer high levels of unemployment even in boom periods (Recio, 2007).

MSEs are also prominent in similar situations in public and private services, where there is a substantial body of evidence pointing to the way in which the growth of outsourcing of social care services to voluntary and for-profit organisations has been associated with a substantial deterioration in the employment conditions of those delivering such care against the background of downward pressures on contract prices (Cunningham, Hearne and James, 2013; Rubery and Urwin, 2011; Pennycook, 2013; Besse et al., 2013; Holtgrewe, Kirov and Ramioul, 2015). It would be surprising indeed if this poor treatment of workers did not include limitations in the attention paid to appropriate arrangements for safety and health.

Elsewhere, sub-contracting has also grown considerably – for example, in business services, where there are many MSEs. Once again available evidence from EU surveys identifies a link between such externalisation and the deterioration of employment conditions (Doellgast and Greer, 2007; Jaehrling, 2015; Wills, 2009). Studies of the supply chain dynamics in food processing and production have similarly shown them to be associated with adverse employment effects. For example, they have revealed how supply chain relationships between supermarkets and their often much smaller suppliers lead to increased casualisation, unstable patterns of work, and working time and work intensification (Baud and Durand, 2012; Equality and Human Rights Commission, 2010). Further studies have reported similar effects in a number of other sectors, including clothing manufacture, road haulage, fast food, and others similarly characterised by extensive use of franchising of MSEs (Weil, 2009).

It is frequently MSEs that are in the weakest position in these business dependencies. As we have already pointed out, in order to stay in business they are obliged to subordinate themselves and their workers to poor employment conditions. Thus, while the business strategies of more powerful firms act to restructure economic relations, they also serve to undermine or de-structure existing ones which may create more MSEs through outsourcing, but which at the same time ensure that both new and existing such firms are placed in weak business positions and controlled by these more powerful businesses. Cost and delivery requirements, in combination with these power imbalances, help blur boundaries between the ‘inside’ and ‘outside’ of the MSE, leading to what some scholars have called ‘increased porosity’ (Marchington et al., 2005), again embraced within Weil’s somewhat wider conceptualisation of ‘fissured workplaces’ (Weil, 2014). In these scenarios, the control of work outputs and the pace of their delivery, conventionally influenced and organised under the aegis of the employment relationship, are increasingly subject to more pervasive pressures sourced outside this relationship and the legal nexus in which it has been traditionally embedded. The research literature also points to a further element of these patterns, in as much as the increasingly triangulated relations thus created between workers, their employers and customers/clients and buyers, act to alter the power dynamics of the conventional employment relationship (see, for example, Carré, 2000; Leidner, 1996; Lopez, 2010). While such relations are not new, the number of new forms of employment status that are triangular has grown quickly in recent decades (Eurofound, 2015).

Many MSEs are especially susceptible to these changes because they have relatively little power at their disposal to direct the situation in which they find themselves. As the previous paragraphs make clear, the literature indicates that this is likely to reduce decision latitude on the part of owner-managers in MSEs and intensify the competition for business to which they are subject. For many, this combined lack of resources and absence of competitive power leaves them with little choice but to adopt ‘low road’ survival strategies and to cut corners (including those on OSH) to ensure their survival, regardless of how much they might aspire to take the ‘high road’ in these respects. The challenge for policy on OSH at national and European levels, therefore, becomes how to mobilise effective strategies for prevention in such scenarios. This requires

⁶ 50% of total employment in the first quarter of 2008, according to the Economically Active Population Survey (Instituto Nacional de Estadística, 2012).



the identification of structures, processes and actors through which leverage on good OSH practices can be achieved. We will argue in this report that TUPAs have an important role to play in this respect.

Regulation and enforcement

Research generally emphasises the significant role of regulatory elements (both regulation and regulatory enforcement practice) as a determinant of positive outcomes in small enterprises. Indeed, it suggests that even when they have no direct experience of regulatory inspection, owner-managers in MSEs may be influenced by the possibility of it. This suggests that coercive institutional pressure may be the most important element in influencing the basis for much action of owner-managers of MSEs, as well as a determinant of the success of intermediaries in supporting their OSH arrangements.

Current regulation builds on process-based requirements that aim to protect more or less all workers within an employment relationship by emphasising their employers' responsibilities to competently assess and control the risks of work in ways that normally also include the participation and cooperation of workers. Most EU Member States take as their starting point for regulating OSH the requirements of the Framework Directive 89/391, which reflect essentially what legal scholars have referred to as the three 'pillars' of regulation: competent employer engagement with responsibility for evaluating and controlling risks; participation of workers both individually and through their representatives contributing practical knowhow; and state inspection and enforcement (see, for example, Bluff and Gunningham, 2004; Gunningham and Johnstone, 1999; Coglianese, Nash and Olmstead, 2002). None of these general principles is meant to apply any less significantly to MSEs than to larger organisations. However, while frameworks for the protection of workers' safety and health in the Member States of the EU do not overtly discriminate against vulnerable workers⁷, it is questionable whether they always offer them adequate protection. This is apparent for many workers in MSEs in a number of different ways, as is shown by many previous studies (EU-OSHA, 2016).

Recent survey analysis demonstrates that there is a size effect in evidence in quantitative data on the uptake of arrangements for safety management in the EU (EU-OSHA, 2017c). There is a clear gradation from micro to large enterprises in relation to both the commitment of managers to OSH and the arrangements they make for it, as well as in the presence of worker representation on OSH. There is also substantial evidence that the principles of process-based requirements, while understood and more or less accepted in larger organisations, remain a mystery to owner-managers in many MSEs, who would prefer to be 'told what to do' by regulation that indicated more prescriptively what was required of them (EU-OSHA, 2016).

This may be why the importance of face-to-face contact with regulatory inspectors is a prominent finding of research concerning 'what works' in supporting compliance practices on OSH by MSEs, as is evident from recent review of previous research (EU-OSHA, 2016). However, two particular issues stand out. One, which we have already mentioned, is that the highly competitive business environments that the outsourcing activities of large and powerful organisations have obliged many MSEs to occupy, may increase the adoption of 'low road business strategies'. The second follows from this, in as far as these enterprises are situated in positions that are 'hard to reach' for regulators, and therefore there is little chance that contact with inspectors will prevent them from exposing their workers to the increased risks to OSH that are associated with these strategies.

Some inspectorates may be better equipped than others to respond to these consequences of structural, economic and labour market change. For example, Teague (2009) has argued that responses of labour inspection to change are circumscribed by the nature of their remit for inspection. He suggests that the narrow organisational pattern on which specialist inspectorates, such as those in the UK, are based, make them less suited to address the consequences of such change than those inspectorates concerned more broadly with social and employment affairs. However, empirical research evidence in support of this argument is lacking. Moreover, at least as far as small firms are concerned, published inspection policies in the UK from the early 2000s were in the vanguard of those that acknowledged the problem of reaching small firms with OSH inspection and promoted alternative strategies to effect compliance among these firms (Walters, 2016; Cardiff University et al., 2011). However, it should be noted that, since that time, a

⁷ As elsewhere in this text we use the term 'vulnerable' in a broad sociological sense to refer, for example, to the precarious work positions occupied by some workers brought about by insecure contracts, loss of wage benefits, unpaid overtime and occupational health and safety risks that are well-established in the literature as consequent to these features, rather than to mean the personal features of the workers themselves, although of course the term may also embrace such features.



combination of budgetary cuts and political pressure have led some observers to argue that, at present, UK strategies signal an approach that is more in line with reduced enforcement than it is with innovative approaches to reaching hard to reach scenarios (see, for example, Tombs, 2017). Nevertheless, the approach contains several elements now more widely adopted by the regulatory authorities of many EU Member States in relation to the attention paid to MSEs and hard to reach work scenarios, including:

- Greater attention to strategic co-ordination, stimulation and promotional activities increasing reach and 'buy-in'
- Support for greater 'stakeholder' involvement in work environment issues by labour market actors and other interest groups
- Policy reorientation emphasising target setting and evaluation in relation to inspection practices
- Broadened surveillance for multi-employer arrangements, especially in construction
- Supervision of temporary/agency firms
- Going upstream in inspection/supervision of supply chains
- Greater focus on advice and guidance, cascading messages to 'hard to reach' duty-holders such as small and micro firms, foreign firms and workers, sub-contractors, migrant workers etc.

While these are indications of changes in regulatory thinking at the level of institutional policy-making, the extent to which such policies have led to concrete changes in inspection practice, or the support for it, is far less clear (see, for example, Walters et al., 2011; Quinlan, Johnstone and McNamara, 2009; Bruhn and Frick, 2011; Frick, 2014).

MSEs have been explicitly identified as among the targets of the strategies put in place to deliver these policies, in which communication, using intermediaries with an interest in OSH in MSEs from among private and public actors, and identifying the business benefits of OSH for smaller firms, are advocated. As we will detail later, such an explicitly focused 'co-ordinating or orchestrating role' for regulatory agencies in relation to the activities of intermediary bodies has been identified in recent EU studies as a significant success factor among the strategies and tools deployed in supporting OSH in MSEs (EU-OSHA, 2017b). Importantly, this approach is one that has potential for trade unions and TUPAs to engage with, and we will return to further discussion of this later.

Overall then, the evidence of previous studies indicates that the public regulatory contexts inhabited by MSEs provide a statutory framework of OSH standards, even though there is a significant problem of reaching and influencing all MSEs through face-to-face contact with regulatory inspection. Regulation hence serves as the foundation for various other activities and actors, such as those of OSH advisers, occupational health services, and preventive insurance systems. But it is important to be clear that the findings of previous research strongly indicate that public regulation and inspection remain important factors in determining the actions of owner-managers in MSEs in relation to OSH. As such, therefore, ideally they also frame the policies of other institutions, including those of trade unions, that contribute forms of private regulation to the current mix of regulatory strategies that apply influence on OSH in MSEs.

In addition to the role of public regulation as a direct institutional determinant, other somewhat less tangible or formalised elements are also relevant. For example, as well as requirements to comply with regulatory or other standards, more subtle but equally important influences on the way owner-managers and their workers understand OSH in MSEs are found in the institutional pressures to secure the social licence they require to operate (Scott, 2001). All firms – large as well as small – need to be accepted as legitimate within the environment in which they function in order to be able to operate. Institutions, in this sense, constitute the social structures which regulate the relations between both individuals and organisations, and in this context especially, the relations between firms and society. These structures are institutionalised when they have become generally accepted and, in principle, taken for granted. Thus, without necessarily acknowledging it as a response to a specific regulation or imposed standard, owners and managers of firms generally know that they have to treat their customers in a reasonable manner, and they have to treat their workers properly, and they know that if they violate such institutionalised rules, there may be unwelcome consequences for both themselves and their business.

At the same time, the research literature points out that MSEs tend to experience a lower institutional pressure in this respect than larger firms (Beck and Walgenbach, 2005). Important reasons for this include their lower visibility to regulatory enforcement than larger firms, their lower vulnerability to public media



attention, and their generally more limited governance contacts which would otherwise influence their OSH management. Arguably, their lower profile in terms of trade union membership and influence further contributes to this lesser institutional pressure. In such circumstances, another prominent institutional mechanism pushing organisations to behave and organise as other organisations do, is what DiMaggio and Powell (1991) have termed 'isomorphism', and MSEs are subject to the effects of this as much as they are directly influenced by regulation and its enforcement or by the pressures of other direct forms of intervention. This may be so, whether such isomorphism is coercive, and ultimately derived from the state and the market, forcing MSEs to act in a certain manner; or normative, and based on beliefs about what is right and wrong in a certain field; or mimetic, involving copying what others do when uncertain about what might be the right actions in given situations.

The influence of other actors and intermediaries

Current governance and regulatory policies within the EU, as well as in other advanced market economies, place increased emphasis on regulatory mixes. This is, in part, an acknowledgement of the limits of conventional regulatory inspection in restructured business contexts, including in relation to MSEs, whose numbers mean, as we have already made clear, that conventional methods reach only a small proportion of them. It is also a pragmatic approach to exploiting business and other relationships to improve compliance with health and safety regulations in modern economies. In some countries, it is further a reflection of the traditions for corporate and industrial relations collaboration, where social partners, insurance companies and others collaborate in order to reach out with support to MSEs.

There are a number of institutions and actors that play prominent roles in the OSH infrastructures in the Member States we have studied. They are, therefore, potential actors in the regulatory mixes currently advocated in the governance of OSH. As well as employer organisations and those of organised labour, there are other membership organisations with a professional or policy interest in OSH, such as associations of practitioners, voluntary and charitable organisations, and employers' organisations specifically representing the interests of owner-managers in small firms. There are also prevention services, required by law in some countries and determined by the market in others, as well as both large and small consultancy style organisations which provide OSH services. There are important bodies in public administration, such as non-profit insurance organisations and those addressing work-related elements of social welfare, which assume far greater importance in the infrastructure for OSH of some countries than in others. And there are also non-OSH actors that, under certain circumstances, can have positive impacts on OSH in MSEs. There are differences between countries in the extent and balance of the presence of these actors and processes in their OSH systems, such as, for example, in the role of social insurance, that is determined by the nature of the historical balance between no-fault workers' compensation systems and the role of private litigation in compensating work-related harm. Such differences are further evident in the extent to which corporatism has characterized historical and current approaches to the representation of employers, organised labour and the state in matters of employment and labour relations, as well as on OSH; and in the membership and role of professional bodies and practitioner organisations; and further differences evident in the form, functions and importance of organisations representing small businesses.

Many of these actors, nevertheless, play roles in the governance of matters relevant to OSH in MSEs, through processes that help facilitate voluntary action on OSH. Such processes may achieve this effect as part of their general engagement with small businesses, even without an explicit focus on OSH. For example, processes involved in business start-up, taxation, employing and training workers, accounting and financial record keeping, as well as dealing with suppliers and customers, all have elements that influence the arrangements an owner-manager might make for the safety, health and welfare of their workers. Moreover, the relations workers have with their employers may also include processes in which they may have opportunities to influence their employers' provision and practices in relation to their OSH. These processes are relevant to the requirements that owner-managers perceive as necessary to provide them with the social license to operate which gives their business both the social and economic legitimacy to which we have already referred.

The research literature identifies a host of examples of initiatives facilitated by institutional actors, some of which show measurable impacts and are innovative and well-designed, reaching an important share of MSEs, and helping improve OSH practice and procedures in these firms (EU-OSHA, 2017b, 2017c). Among the lessons learned concerning 'what works' in relation to the success of these initiatives are the extent of



the direct face-to-face support they offer MSEs, and the ease with which their proposed solutions can be implemented in the MSEs. As has been well documented previously, since MSEs are often faced with immediate issues to which they need to react, research shows that owner-managers in these firms prefer solutions adapted to their specific settings and work processes. While simple tools offering direct support have been found to contribute to improving OSH standards, such solutions are better transferred through face-to-face communication with intermediaries than by leaving owner-managers to find or receive information via IT or other sources.

As the review undertaken by EU-OSHA made plain, it is not necessarily a lack of initiatives originating with these various intermediary organisations that is the central problem in helping MSEs improve their arrangements for OSH. Rather, this problem has more to do with the reach of the interventions that the intermediary organisations support. As is widely acknowledged, MSEs are a heterogeneous mix of very different organisations, a substantial proportion of which display features, such as those outlined in previous sections, which make them averse to voluntary forms of engagement with interventions on OSH.

Several previous researchers have tried to summarise these features and have suggested ways of categorising MSEs to indicate the likelihood of their responsiveness to different styles of intervention (Hasle et al., 2012b; Lansdown, Deighan and Brotherton, 2007; Vickers et al., 2005). Thus, Vickers et al. (2005) distinguish four types of small firm according to their likely compliance behaviour, ranging from 'avoiders' through 'minimalist responders' and 'positive responders' to 'proactive learners'. The more extensive recent EU-OSHA study used a similar approach and, based on case studies of MSEs in nine different EU Member States, it suggested that three different types could be distinguished in relation to business practices and reactions to OSH regulation and other forms of support aimed at improving OSH. Its authors refer to these as 'avoiders,' 'reactors' and 'learners'. They explain that 'avoiders' embrace the sorts of enterprises that tend to neglect work environment issues, many of them following a low-road survival strategy, typically utilising precarious contracts, low wages and often low-skilled labour in order to compete in low-quality or non-specialised markets. Some 'avoiders' might also use low OSH standards as a competitive business advantage. 'Reactors', which probably represent the largest proportion of MSEs, like many of the 'avoiders' generally display a passive approach and limited understanding of OSH. Risks are typically seen as inherent in the industry, and unavoidable. Owner-managers do not actively seek to improve or change the work environment, but are likely to react when an accident or serious incident occurs, or when OSH is brought to their attention in some other manner, such as through a visit from the labour inspectorate or interaction with other intermediaries. Best practices used by these intermediaries are successful in reaching some MSEs in this category. The third type, the 'learners', display features more often associated with a high-road strategy for business, for example frequently competing in high-quality or niche markets emphasising product quality rather than pure price competition. Enterprises in this category would be likely to employ highly-skilled workers and emphasise on-the-job training and development. They might even be persuaded that better OSH conditions, or a sensitivity towards considering OSH, might support the retention of employees. Owner-managers thus categorised would be those who perceived OSH as something that could be controlled and improved, typically regarding such improvement as part of an on-going development of their business. 'Learners' would be likely to actively use available OSH knowledge and external advisors, and would also have a positive perception of labour inspectors as partners rather than opponents. This latter category of firms would obviously be easier to address with various voluntary supportive strategies, while the avoiders and reactors are much more difficult to engage in voluntary initiatives, suggesting that more coercive forms of intervention, such as those involving regulatory inspection and enforcement, are more successful strategies for reaching these groups.

In short, therefore, the external determinants of the improvement of OSH arrangements in MSEs, whether they originate in public regulation and its enforcement or through voluntary initiatives, face substantial challenges in influencing practice within small firms. While there is a growing awareness of the nature of 'what works' in relation to both influence and support, and there are many examples of good practice, it remains the case that, as a result of a combination of multifaceted resource poverty, in the broadest sense of its meaning, with market precarity and business competitive pressures, a very large proportion of MSEs remain beyond the reach of the determinants of good practice.

Relatedly, even where interventions display the virtues of best practice, for example including face-to-face engagement, simple relevant messages, and easy to use tools, limited coordination of separate initiatives means that reach is often only to those firms that arguably need support least. Such co-ordination requires



different stakeholders to cooperate and disseminate the same messages in order to avoid fragmentation, confusion and overload. Good examples of attempts to achieve this are considerably less frequently encountered in the literature than the plethora of single initiatives. The final report of the EU-OSHA study (EU-OSHA, 2018a) concludes that strategies and programmes that offer significant help in securing substantial OSH improvements are usually complex and use a range of different tools and actions. Long-lasting and far-reaching OSH improvements typically require process and organisational changes as well as technical ones. They also need to be clearly supported by policy at the sector, national and even European levels. Despite such challenges, however, as we will argue in the following sections, trade unions and TUPAs are well placed to contribute to such positive actions. As indicated above, another important finding that emerged from the EU-OSHA study is that such efforts need to be supported by schemes which can provide a strong element of obligation for the MSE. Without this element, the coverage of such approaches is likely to be limited. The significance of this for trade unions lies in the potential it suggests for the greater use of requirements of collective agreements, which are binding on their signatories, to support such initiatives. As we see in the following chapters, this is indeed central to TUPAs' initiatives that are present in both Italy and Spain and also, to a considerable extent, in supports practiced in Sweden in this respect too.

3.3.3 Reflection on 'determinants' from the standpoint of workers

As we have already noted, a remarkable feature of the literature on OSH in MSEs is the way in which by far the large majority of studies, as well as much of the grey literature, regard MSEs almost exclusively as the preserve of their owner-managers. Much of this literature also makes assumptions concerning the identity of the interests of owner-managers, MSEs and those who work in them and only rarely acknowledges the possibility of a separate 'workers' standpoint' in discussing arrangements for their safety and health (EU-OSHA, 2016, 2018a, 2018b). There are, of course, some obvious reasons for this to be found in the central position occupied by the owner-manager as often the sole decision-maker in the enterprise and their importance in determining acceptance of OSH interventions, as we have already noted. However, as we have tried to show in previous sections in this chapter, from an analytical perspective such a narrow focus has serious limitations in understanding both the relations of work in these enterprises and why it is that unsafe work practices feature prominently.

At a macro-level, of course, as we have made clear, there are a host of studies that indicate that small is not necessarily beautiful for many workers. However, even within MSEs that are not entirely obliged to follow low-road business survival strategies, a more detailed understanding of the underlying determinants of the OSH experiences of workers suggests that there may be major disconnects between them and assumptions concerning their OSH behaviour that are based on a shared identity with the owner-managers of the firms in which they work. These disconnects become more apparent when research findings on the determinants of OSH in MSEs are examined in the light of understandings derived from more sociologically informed analysis of the relations of work in MSEs. Eakin (2010) argues, for example, that workers' perceptions of, and responses to, issues of health and injury are closely tied to the social relations of the production in which they are embedded. She further argues that there are two features of these relations that have particular consequences in small workplace settings: personal relations of work, and the social proximity of labour and management. She concludes that when working 'normally', these features may take on the appearance of a supportive and central feature of workers' experience. She indeed notes that they are therefore often cited by workers as the reasons for job satisfaction and a sense of shared interest with that of management and the enterprise generally, a finding also reported in the recent EU-OSHA study (EU-OSHA, 2018a). But she further argues this 'normality' masks a conflict of interest inherent between the workers and the owner-managers of the organisations in which they work. She suggests, however, that it is generally only when things go wrong in matters of safety and health, such as when workers are injured or made ill by their work, that their sense of 'being treated like a person' disappears and this conflict that is inherent in the labour management relationship in small firms is unmasked.

Such ways of understanding safety and risk are of course socially constructed and, as such, are lenses through which workplace experiences are perceived and processed and sense is made of these experiences. The consequences of this may be to socially amplify or reduce the significance of risk and the actions deemed appropriate to address it.



One of the important findings reported in the analysis of workplace experiences in the recent EU-OSHA study is the perception shared by both owner-managers and workers that addressing safety matters was just 'common sense'. As the authors of the EU-OSHA reports explain, these understandings referred to shared perceptions and judgements, appealed to as possessing authority and therefore not requiring debate. They arose from abstract and culturally determined perceptions which anticipated (safe or unsafe) behaviour and decisions. These understandings were received from a host of wider sources in the social milieu inhabited by workers and owner-managers both inside and beyond the enterprise. At the same time, the authors note that, since most of the owner-managers in their study did not consider OSH as part of their core tasks, they also did consider it necessary to manage it as part of these tasks. Instead, they had a reactive and ad hoc approach to OSH, which was further reinforced by their limited management resources, which were normally fully occupied by day-to-day operations. This has also been a consistent finding in the literature on MSEs (Baldock et al., 2006; Hasle and Limborg, 2006; Walters, 2001). In combination with notions that safety was no more than 'common sense', a consequence of this was the high discretion owner-managers appeared to allow workers in choosing the ways to protect their safety and health that the workers deemed appropriate to a given situation – such as when deciding about whether to wear personal protective equipment (PPE), for example. This further implied that such discretion allowed them to choose unsafe solutions, such as those perceived as time-saving, or ones that increased production, with other studies indicating how such solutions often become part of 'normal practice', even in situations in which workers are instructed by company rules to do things in a specific and different manner.

These findings are not so far removed from what Nichols and Armstrong (1973) observed nearly fifty years ago in their investigations of the occurrence of industrial accidents in a workshop that was part of a large manufacturing establishment. Their analysis focused on the underlying sociological reasons why workers had performed the proximal unsafe acts that had led to their injuries. They showed that the explanation for these acts was to be found not solely in their 'irresponsible personal behaviour' but rather in the wider relations of production within which their actions had occurred. Each accident had taken place when the victim and others had been trying to rectify faults that had interfered with the production process. They had done so by breaching safety rules, not because they were ignorant of the rules, apathetic or unconcerned about their safety, or seeking to deliberately injure themselves, but because their actions were determined by stronger imperatives concerning production and profitability, which were prioritised by the company management and which permeated the ethos of social relations among managers and workers alike. Among workers who, like those in small firms, saw safety as a matter of personal responsibility, their 'common-sense' understandings suggested that actions to ensure the continuity of production were more important and therefore to be placed before those addressing personal safety. Given the overwhelming pressures to meet price and delivery demands that we have argued are placed on many small firms as a result of their business dependencies in market situations, it seems hardly surprising that their workers in these scenarios should adopt similar strategies towards 'getting the job done'.

As we have made clear, research findings suggest that, in the case of MSEs, while owner-managers may appear to acknowledge their responsibilities for the safety of their workers, limitations in their own capacities to do so lead them to strongly advocate the workers' own responsibilities to 'look after themselves'. However, a more sociologically informed analysis of such attitudes might interpret them as emblematic of the trend towards the responsibilisation of workers in neo-liberal economies (see Gray, 2009), where moral and legal duties that have been understood to be those of employers in the past are in practice nowadays tacitly shifted away from them and placed on the shoulders of those the duty was originally intended to protect (i.e. the workers). We would suggest that proper acknowledgement of these more nuanced understandings of how safety and health are operationalised in the relations of production in MSEs should feature more prominently in informing the policies and strategies of regulators, agencies and others with the potential to intervene in matters of safety and health in these firms. Of all the actors with such potential, given their background in organised labour and the familiarity this brings with the pluralist discourse that surrounds production in capitalist economies, TUPAs are perhaps among the best placed to put such understandings to good practical use in their relations with MSEs.

3.4 Trade unions and support for workers' safety and health in MSEs

The challenges for protecting workers in MSEs through the efforts of organised labour are formidable. As we discussed in the Introduction to this report, while there is irrefutable evidence that trade unions can have a



positive effect on OSH, conventional approaches to organising labour through the mobilisation of workers and the organisation of collective action, work well under preconditions associated with larger workplaces, but are particularly challenging in smaller ones. The presence of collective representation on both general matters as well as OSH, is proportional to size and far more likely to be found in larger establishments than in smaller ones. Indeed, in some EU Member States, micro firms (and, in certain cases, firms with less than 20 workers) are exempt from statutory requirements to establish arrangements for workers' OSH representation which apply in larger organisations. Studies also indicate, for example, that in small firms, their size, their organisation and operation, the accessibility of decision makers, the shared experiences of workers and managers, and the proximity of social relations, all contribute to making formal arrangements for worker representation seem cumbersome and unnecessary to those who manage or work in these establishments (see, for example, EU-OSHA, 2017a). In these studies, participants often furnish examples of situations in which they believe the direct participation of workers and managers achieve the desired effect of engagement with OSH issues.

Research undertaken mostly in relation to larger workplaces shows that, for workers in MSEs to represent their autonomous interests in safety and health, whether directly or indirectly, requires the support of certain preconditions for its effectiveness. These include a strong legislative steer, the will and capacity of employers to manage OSH participatively, and the support of trade unions inside and outside workplaces of confident, well trained and competent worker representatives. In this respect, research indicates a clear difference between the representation of the autonomous interests of workers in their safety and health⁸ – which as we have argued, are far from always identical with those of the business or its owner-manager – and getting workers to participate in schemes that serve only to further these organisational and business interests.

What these findings also clearly show, however, is that, in most situations, features of what make arrangements for worker representation a useful contribution to successful outcomes in larger firms do not apply in the same ways in small firms. Such formal arrangements are neither a practicable nor necessarily a useful strategy in small organisations. However, we will argue in this report that forms of participation that support workers' autonomous interests in OSH are nevertheless as important in MSEs as they are in larger organisations. But like other forms of support for OSH in MSEs, they require adaptation to the social relations of production in these enterprises. It is here that the principle challenge for trade union preventive actions lies. In the following section we briefly summarise what previous research has concluded concerning the ways in which trade unions have responded to this challenge.

To begin with, this research shows that trade unions undertake this role successfully and at a number of different levels. Their impact is evident on strategies aimed at improving protection and prevention for workers in small enterprises that are developed at the macro-economic and political level and, as Walters (2002) concluded, such impact is apparent:

- in the development of regulatory measures and their operation;
- in national and sectoral collective agreements and in tripartite measures;
- in insurance association policies and strategies; and
- in influencing the political will of the state to develop preventive policies aimed at hard-to-reach sectors.

At the same time, through their representational roles, trade unions impact at the operational level within sectors and regions, and at the level of the workplace, within small firms and related employment situations. Research has already shown this impact to be present in most of the countries in our study by outlining the role of trade unions in creating structures and processes at regional and sectoral levels, either through legislative or voluntary means. It further shows how trade unions contribute to the operation of these structures and processes and how they support the activities of representatives and workers in health and safety in small enterprises. Finally, it has demonstrated that it is the activities of worker representatives themselves that are ultimately responsible for successful worker participation in arrangements for OSH in small enterprises and related work situations (Walters, 2002).

⁸ The research literature demonstrates that one of the preconditions for effective actions of representatives of workers on OSH is their capacity to understand OSH in ways that are autonomous from the normative arguments of their employers (EU-OSHA, 2017c). Such 'knowledge activism' (see Hall et al., 2006, 2016) combines technical, political and representational understandings in ways that enable them to implement effective strategies on OSH matters during consultations with their workers (see also Walters and Frick, 2000 and Walters and Nichols, 2007).



Previous accounts indicate that many of the initiatives trade unions have instigated are successful in increasing and supporting the role of worker participation in health and safety in small enterprises. They also suggest something of what seems to work well in promoting and sustaining the participatory engagement of workers and employers in making effective arrangements for OSH in small enterprises, as well as what supports or constrains such activities in the countries concerned. They show that there are many ways of operationalising participative approaches to arrangements for addressing risk in small enterprises, and several factors that promote their success and sustainability (see for example Frick and Walters, 1998; Walters, 2002, 2004a).

There are no significant examples of participative arrangements for OSH in small enterprises in the absence of trade union involvement at some stage in their development and operation. This is not to say that direct participation between employers and workers on health and safety does not or cannot take place in small enterprises – as we have already made clear. Rather, it is to argue that to be successful and sustainable on any scale, these practices require support, and trade union organisations are the main source of such support for the workers involved in such arrangements. However, in most cases, the structures of vulnerability that exist in small enterprises mean that trade unions can also play a major political role in instigating participatory approaches at the level of the sector or region. These approaches or their influences are further developed at the level of the workplace.

The explanation for this is found in the theoretical arguments concerning the labour relations of OSH. In short, achieving autonomous worker-centred engagement in participatory OSH management, in which workers are able to exert their own normative and economic influence, a framework of support is required. This is necessary both within enterprises (in the form of workplace organisation) and outside of workplaces (in the form of a political presence and practical support through co-ordination, training and information). Trade unions are the only organisations that supply both these forms of support. These arguments apply to all forms of representative participation in OSH, regardless of workplace size. However, as we have observed, MSEs present a particular challenge because worker organisation within workplaces is a function of size and is both less likely to be present and more difficult to establish in small enterprises than in their larger counterparts. Equally, the relative isolation of workers in small enterprises and their particular vulnerabilities mean greater (and relevant) supportive efforts are required from trade unions outside workplaces if organisation within them is to be effective.

Organisation at the level of the workplace is fundamental to the trade union approaches we have described. Regional/territorial representatives, regional/sectoral committees, and trade union regional or sectoral organisers do not operate as substitutes for worker organisation in small enterprises. A primary objective in all cases is to *instigate and support the development of worker organisation for health and safety within workplaces*. This is evident, for example, in the approach of the Swedish regional representatives and in that of representatives in other schemes modelled on the Swedish approach, such as those in Italy and Spain. It is also evident in the activities of trade union organisers and in the various trade union information and training initiatives described in previous literature. Although the reason for the existence of these initiatives is the recognition of the problem of organising for OSH in small workplaces, they are not alternatives to workplace organisation. An appreciation of this helps in understanding both the trade union strategy towards sustainability (through organisation inside the workplace and its support from outside by trade union/joint structures), as well as the political hostility to these initiatives that is sometimes expressed by employers' peak organisations.

While trade union involvement may be fundamental to the operation of schemes to increase worker participation in making and maintaining health and safety arrangements in small firms, there is little doubt that a legislative framework is enormously important in initiating and sustaining such schemes. The literature on experience in countries such as Sweden, in which there have been legislative provisions for many years, as well as in a country such as Italy, where legislative provisions are more recent, strongly support this. However, the need for legislative provision is also supported by the evidence of the limited sustainability of initiatives such as those in the UK (see Walters, 2001, 2002), where no such provision exists.

Previous studies suggest that most schemes involving trade union representatives, such as those in Italy and to some extent in Spain, whether they were based on legal requirements or voluntary ones, follow the Swedish model of regional representation. However, there are other approaches to achieving and supporting



participation in small enterprises.⁹ Occasionally, as in Denmark, trade unions and employers have avoided adopting a regional representational approach, and concentrated their efforts on achieving collective agreements that support and improve the development of internal joint arrangements and bipartite interventions (EU OSHA, 2017c)¹⁰.

Nevertheless, there are several reasons why a legislative framework is important. It sets out minimum legal requirements that parties involved with small enterprises are obliged to follow. It provides a useful framework for trade unions and employers to build on in their collective agreements and saves them having to negotiate over the basic requirements. And it raises the profile of the issue and provides a conspicuous marker for all small enterprise workers and employers to see.

As we have already noted, there are many studies of small enterprise owner-manager attitudes that indicate that they regard compliance with the law and the threat of legal sanctions as powerful motivators in health and safety. Legal support for the rights to some form of representation helps reduce the sense of isolation and vulnerability experienced by many workers in MSEs, and provides encouragement to act in situations where otherwise fear of victimisation may prevent them from doing so. Moreover, the legitimacy that a legal framework can give the existence of regional/territorial representatives and their support structures is quite a powerful factor in determining their acceptance by all parties.

However, it is also quite clear that a legal framework on its own is insufficient to ensure the success of schemes to achieve better participatory arrangements in health and safety in small firms. From previous accounts of initiatives involving regional representatives, it is clear that trade union national, sectoral and regional structures have made considerable political and practical efforts to ensure their success. At the same time, the engagement of employers' organisations (and the branches of such organisations that represent the interests of small firms) is shown to be crucially important. In the eyes of observers, schemes are most effectively implemented through a framework elaborated in agreements between trade unions and employers'/small enterprise organisations (and sometimes other parties). Such agreements help to ensure the commitment of members, as well as providing pooled resources to support training and information.

It is also clear that regulatory agencies, preventive services and (sometimes) insurance organisations share an interest in ensuring the success of such schemes, since they recognise that they are of assistance in spreading and operationalising their own efforts to boost preventive OSH in small enterprises. There are potential close links between such agencies and trade union efforts to achieve a representative role on health and safety in small enterprises. As a result, the more successful efforts are situated within wider national approaches to set up intermediary structures and processes that help achieve better OSH in small enterprises. National strategies increasingly advocate that agents of the health and safety systems take greater advantage of opportunities offered by social and economic interests in the environment of small firms to help to cascade and sustain initiatives on OSH. Trade union involvement as intermediaries and as push-pull influences on small firms is especially significant in this respect. Also, importantly previous research demonstrates that the access that trade unions and their representatives have to small firms, while by no means complete, is considerably greater than that enjoyed by many other agents of national health and safety systems. It is enhanced by the number of representatives involved, the coverage of agreements, and the possibilities for contact with the workers within small firms.

Research has also demonstrated that generally, regional/territorial representatives are well-informed and useful sources of information and advice on health and safety matters. Importantly, this viewpoint is shared not only by trade unions and agencies of the health and safety system, but also by representatives of employers. Such knowledge and skills make these representatives extremely useful contributors to improved health and safety arrangements in small firms. As well as this, their acknowledged competence adds to their legitimacy in the eyes of owner-managers in small firms. Studies suggest that, despite the hostility of small firm owner-managers to regulatory 'interference' in their businesses, as well as to the activities of trade unions, many found regional health and safety representatives a valuable resource.

⁹ For example, the role of joint committees in ship-building in Greece and regional observatories in France are two very different approaches, one (in Greece) which has legal support and the other (in France) which is implemented by agreement (see Walters, 2001).

¹⁰ Since 1998, Danish legislation has made provision for safety groups in workplaces with 5 or more workers. Safety groups consist of safety representatives and supervisors and are the basis of all joint arrangements for health and safety in Denmark.



Previous studies point to several reasons why trade union representatives are able to develop positive relations with small firm owner-managers. As well as the legitimising role played by legislation and by the engagement of employers'/small firm organisations in agreements on regional/territorial representation, other factors include training and experience as union representatives and awareness of the range of possibilities for action that their role allows. These include building workplace organisation for OSH, but also undertaking inspection activities and making authoritative comments to owner-managers concerning improvements, while cultivating strong working relations with other actors, such as regulatory inspectors.

Furthermore, previous research has emphasised that trade union representatives and organisers that are engaged in representing the needs of workers in small firms do so in ways that are both structurally and socially different from those undertaken by more traditional forms of representation from within workplaces. Schemes to represent the health and safety needs of workers in small enterprises must take particular account of the circumstances of such workers. However, it is quite difficult to make generalisations concerning the 'best' ways of doing this. Findings demonstrate that communication skills are important, as is the ability to function on many levels in health and safety, not only in relation to employers and workers in small firms, but also with regard to regulatory inspectors, personnel of external preventive services, local media, and other social and economic interests. Training that takes account of these needs is important. Also important are the information resources provided by trade unions and/or the bilateral bodies that have been set up in a variety of regions and sectors. In addition, support and co-ordination of the efforts of trade union regional/territorial representatives by such bodies is vital to the success of their mission. Trade union representatives that support the needs of workers in small firms from outside the firm do so in a state of comparative isolation. One function of training courses is bringing together these representatives to enable them to share experiences and to gain support from one another.¹¹

It should be clear from this resume of previous findings on trade union initiatives involving their representatives that there is no single 'preferred approach'. Although versions of the Swedish model of regional health and safety representation are most frequently adopted, economic, regulatory and labour relations systems in different countries mean that each national application has its own unique features. In addition, there are many other initiatives, such as the experiences of health and safety advisory services for workers in the UK and in Spain,¹² as well as the roles of joint committees and bilateral structures in some regions and sectors of Spain and Italy, which suggest that there may be other 'horses for courses' according to local circumstances. It seems clear from the literature that a variety of approaches, each taking account of the peculiar circumstances of the region/sector to which it is addressed, are more likely to reap better overall benefits than exclusive allegiance to the implementation of one particular model of achieving better health and safety performance in small enterprises through representative participation.

Whatever scheme is most appropriate to local circumstances, they all have some degree of resource implication. This is a fundamental point and it cannot be ignored. If worker representatives are to participate in creating and sustaining health and safety arrangements in small firms, they can only do so effectively if they are properly trained, well informed and their activities reasonably well co-ordinated. In addition, to make them effective requires the collaboration of other groups with an interest in health and safety in small firms, such as employers'/small firm organisations, regulatory agencies, prevention services and insurance associations. Setting up arrangements to effect such collaboration and to train, inform and organise worker representatives to operate effectively within them requires resourcing. This is not news. Previous studies have emphasised that if the costs represented by ill-health, injuries and fatalities as a result of poor health and safety management in MSEs are considered, a reduction of even a small amount in such a toll represents a huge saving of financial loss.¹³ Although the literature does not provide clear evidence of the extent of the reduction in the costs of accidents that could be attributable to the work of regional/territorial health and safety representatives or other trade union initiatives, there is sufficient indication of the success of their role for us to anticipate that it is considerable and dwarfs the cost of the implementation and operation of such schemes.

¹¹ This is not an uncommon finding in research that evaluates trade union health and safety training generally (see for example Walters, Kirby and Daly, 2001). However, since the isolation of regional/territorial representatives is more extreme it is likely their need for such sharing will be greater.

¹² See Walters (2001) for other examples, such as sectoral/regional health and safety committees in Greece, trade union initiatives in Denmark and regional trade union health and safety observatories in France.

¹³ See Frick and Walters (1998) for a detailed discussion of this point in relation to the Swedish system and Walters (1998) for its wider significance.



The real problem is perhaps not the cost of the schemes, but who is responsible for bearing it. Current arrangements vary. Commonly, costs are met through levies of one kind or another on employers. In other systems the bulk of the costs are borne by the state, in still others by surpluses generated by mutual accident insurance systems. Trade unions themselves also contribute significantly to the costs of many of the schemes we have examined. Unless such outlays can be connected to the potential savings they generate, they are unlikely to be popular with the agencies that provide them. Moreover, a major criticism of voluntary initiatives is that their resourcing is often a one-off arrangement on the part of the state or its agencies. Even if they are successful in terms of improving the indicators of health and safety performance during their life-span, it is not clear how these schemes will demonstrate their longer-term sustainability.

The literature points to significant barriers and constraints to the operation of these schemes. Some of these constraints are simply the reverse of the coin described in the previous section. Thus, in the absence of a legislative framework, and without the coverage of a detailed agreement between interest groups covering issues such as access, training and information, schemes to promote participation in health and safety in small workplaces are likely to encounter problems. Representatives and organisers are especially likely to meet resistance from owner-managers in small firms. Peak organisations representing the interests of small business are also likely to present political resistance to the introduction of such schemes. Similarly, the absence of support from regulatory agencies, social insurance organisations and preventive services contributes to limiting the success and coverage of schemes. And last but not least, the absence of resourcing is a major barrier to both development and sustainability.

Assuming that most of the fundamental supports for schemes are in place, they still face major constraints on their success. Nichols' 'structures of vulnerability' mean that the 'general and multifaceted lack of resources' in small establishments limit development of management competency, information, training, and safe plant and equipment. They often result in restricted access of workers to the autonomous representation of their interests, such as provided through works councils and trade unions, and there may be little experience of OSH management on the part of both workers and their employers. As we have already argued, these vulnerabilities may be further exacerbated by the insecurity of work in many MSEs, and the prevailing threat of unemployment, limited profitability and the large amount of illegal (and consequently unregulated) work and workers associated with them. All of this prevents workers from feeling able or willing to participate in any meaningful way in making and maintaining OSH arrangements.¹⁴

It is not only employers who pose obstacles and constraints for the role of regional/territorial representatives (although it is likely they are the main source of such problems). As we have indicated, workers themselves may be resistant to engaging with health and safety issues. There are therefore difficulties with activating and building health and safety organisation in workplaces where there is none already, and especially in very small workplaces. Problems have been attributed to a mixture of lack of awareness of health and safety issues, spatial and social proximity with employers, isolation and job insecurity. These are particularly acute in very small workplaces. Lack of adequate time to undertake training is also a significant problem, as is the quality of the training provided. Since participants in schemes to increase worker involvement in health and safety in small firms need special skills to deal with their difficult task, their training needs to address this. There is very limited information available concerning the extent to which this is achieved.

Finally, it needs to be noted that while the above discussion has repeatedly referred to experiences in four of the five countries included in the remit of this study, reference to the fifth country, Poland is notable for its absence. The simple reason for this is that there does not appear to be any analysis in the literature concerning the explicit role of trade union representation in OSH in MSEs in this country, despite the dominance of these firms in the economy. This is not to say that trade unions have no such role, but it is fairly clear from the Polish literature, that if they do, it is not one that is widely acknowledged by either research or policy. It is therefore very difficult indeed to draw parallels between the analysis of experiences in the other four countries, which are fairly easily fitted into the same analytical framework and what, if anything, occurs in relation to trade union representation of the safety and health interests of workers in MSEs in Poland. The country report for Poland concerning evaluating operation of EU OSH directives in that country summarises a variety of initiatives concerning support for OSH in MSEs. They appear to be all aimed at supporting owner managers to improve awareness and understanding of OSH, many are aimed at improving safety behaviour, including those organised by state bodies such as the national labour

¹⁴ See Nichols (1997).



inspectorate and the state sanitary inspectorate, but none refer to trade unions or trade union representatives. Similarly, the current national plan for safety and health in Poland refers to several similar initiatives to support owner managers in addressing safety and health in small and medium sized enterprises, but here again none refer to the role of trade unions or trade union representatives.

The reasons for this are not difficult to explain when the set in the wider context of the Polish political economy and the role of trade unions since democratisation in 1989. But empirical evidence focusing specifically on the effects of these contexts on the role of trade union representation in health and safety, both generally and specifically in relation to OSH in MSEs is hard to come by. In a research project of this kind we are concerned with the analysis of empirical evidence, however in its absence, a few observations concerning the effects of this wider context are pertinent. Firstly, it is widely acknowledged that trade unions occupy a relatively weak position in the Polish economy. In 2015 the Central Statistical Office of Poland calculated that 1.6 million people belonged to trade unions, in Poland representing 17% of those who are employed on the basis of employment contracts, but only 11% of all people in employment.¹⁵ Moreover membership has been in decline since democratisation. The three major Polish trade union confederations have taken different positions in relation to the Polish state's neo-liberal economic policies but it is widely acknowledged that they have struggled to engage in meaningful dialogue with the state or employers, despite the existence of tripartite structures of governance for labour relations and safety and health. Indeed, there is a fairly strong consensus among analysts of labour relations in Poland concerning the comparative marginalisation of trade unions in the Polish economy more widely. On representation on safety and health there are regulatory provisions that address OSH representation in larger firms through provisions for trade union appointed Social Inspectors. These are found in the Trade Unions Act of 23 May 1991 and date from earlier provisions originating with an Act of 4 February 1950 which established 'social labour inspection' (Społeczna Inspekcja Pracy), subsequently substantially revised by the Employee Labour Inspection Service Act of 24 June 1983. They are, therefore, based on provisions introduced during the period of the controlled economy. They provide trade unions in larger organisations with powers to appoint Social Inspectors, as well giving them particular functions, including monitoring the enterprise's compliance with Labour Code provisions on: occupational health and safety; working time and leave; protection of women, young adults and persons with disabilities at work; occupational accidents; and diseases compensation systems. They also have entitlements to audit workplaces, demand data and information from the administrative staff and other employees, as well as to notify the employer of any breaches of the labour protection regulations. The legislative provisions further require regulatory Labour Inspectors to cooperate with them. The extent to which these provisions result in actions in MSEs is however quite another matter and it would seem from the limited mention of the activities of these inspectors in the literature that their activities are restricted to larger organisations in which there are trade unions present.

3.5 Conclusions

This chapter has reviewed the relevant literature situating the role of TUPAs in representing and improving the safety, health and well-being of workers in micro and small enterprises in Europe. It has demonstrated that there is good reason for concern about OSH experiences and outcomes for a significant proportion of these workers – which the literature shows to be poor compared with those experienced by workers in larger enterprises. When the scale of employment in MSEs in the EU is borne in mind, the seriousness of such concern becomes apparent. There is also strong evidence that the reasons for these poor outcomes are to be found in the structures of vulnerability inhabited by both workers and their employers in these firms and created by the multifaceted poverty of resources available to many of them and the harsh competition they face in their struggle for their business survival. The literature further shows that such harsh conditions are in part a feature of the structure and operation of modern economies in which larger and more powerful organisations manage their businesses through outsourcing risks to weaker and more vulnerable players in their business relations. And it argues that the price and delivery conditions these more powerful actors are thus able to impose upon their product and service supply networks serve to undermine OSH conditions among the weaker MSEs, often situated in dependent positions in such networks.

The literature shows that in the struggle to remain competitive and meet these conditions, both employers and workers in MSEs often have little recourse but to sacrifice any prioritising of OSH if they are to remain competitive. It also indicates that in such situations the conventional means of protecting workers' safety

¹⁵ See: www.stat.gov.pl



and health, whether through regulatory enforcement or through advice and support from prevention services and the like, fail to reach the great majority of these workers in MSEs. It suggests that in these scenarios there is a need to develop a range of more appropriate strategies and tools that better serve to protect the safety, health and well-being of workers in MSEs in the present-day economies of the EU.

However, the chapter goes on to show how much of the research on OSH in MSEs and the understandings that have emerged from it, focus not on the needs of workers but on those of their employers — the owner-managers of MSEs. It points out that while in many ways this focus is understandable and indeed arguably necessary because owner-managers are, after all, the primary decision makers on how OSH arrangements are made in MSEs, it is misguided to imagine that their interests are identical to those of their workers. Or that by addressing the needs of owner-managers, the interests of their workers are equally covered. But it also shows that remedying this is not straightforward, for while trade unions provide the traditional voice of labour they face serious challenges in doing so for workers in MSEs. A host of structural conditions mean that mobilising and organising workers to act collectively to improve working conditions, including those on OSH, is far more easily achieved in relation to larger organisations. This partly explains why organised labour is a far stronger presence in these organisations than in relation to their smaller and more heterogeneous counterparts.

Nevertheless, the literature provides some evidence that trade unions are active in a variety of ways in supporting workers' safety and health in smaller firms and the chapter has provided a resume of the albeit fairly limited research undertaken on the effectiveness of such support. It shows that most of the countries included in the present study are prominent among those in which such work has been undertaken. The schemes involving TUPAs in Italy, Spain, Sweden and the UK on which we focus in this report have already been subject to some degree of analysis. Therefore, the chapter has briefly outlined some the key findings that emerge from this research and indicated the relationship between these findings and those of recent wider research on OSH in MSEs. It points out that the TUPAs schemes described in the literature in these countries, along with several of the other forms of trade union action to support OSH in MSEs, appear to display a number of the key features that wider research concludes to be important in influencing 'what works, for whom and in which contexts' in the deployment of strategies and tools for OSH improvements in MSEs. This conclusion therefore forms an important point of departure for the more detailed comparative exploration of trade union initiatives and the evaluation of their significance, that are the subjects of the following chapters based on our empirical findings in the countries we have studied.





4 Italy

4.1 Introduction

Italy is one of the two countries included in this project where there are legislative provisions governing the appointment and activities of TUPAs. A ‘strong regulatory steer’ has been repeatedly identified among the determinants of effectiveness of arrangements for the representation and consultation of workers on their safety and health in a host of previous studies (EU-OSHA, 2017c). But the extent to which such a steer is either relevant or practicable in relation to OSH in MSEs has been a central issue of debate for many years. This makes it especially important to consider how such measures operate and how effective they are in the countries where they exist, and this is one of the key aims of the present chapter. Additionally, however, Italy has many special features of its own that may influence what TUPAs can or cannot do in relation to OSH in MSEs. It is, for example, organised on a regional basis in which very different administrative and economic scenarios prevail in its different territories, seen most notably, of course, in differences between the relatively prosperous and industrialised northern Italian regions and those in its more agriculturally based and less well-off southern regions. Therefore, a further aim of the present chapter, as with all the other national studies that follow, is to help in understanding what are the institutional and contextual determinants of the success or otherwise of TUPAs in such circumstances. These understandings also help better assess which of these institutional and contextual determinants are nationally specific and which are transferable to other national contexts, and this is, therefore, a further important aim of the present chapter.

To achieve these aims, the following account begins with an outline of the position of MSEs in the Italian economy, the OSH outcomes in MSEs and the main features of the regulatory and labour relations systems that allow for the appointment and operation of TUPAs as well as influence their operation. This is followed with an outline of previous research findings on the role and activities of TUPAs in Italy and especially of the conclusions of the most recent national research. These are helpful in situating the present study’s empirical contribution to this knowledge, the details of which then follow. The findings of the current research build on previous work by focusing on the experiences and reflections of key actors who participated in the study and provide data on the detailed experiences of TUPAs. In the main, these are focused in two sectors in four northern Italian regions, but they also offer some more general reflections on the situation in other sectors and regions too. In particular, these sections of the chapter focus on participants’ experience and understandings of ‘what works’ in relation to the engagement of TUPAs in supporting OSH in MSEs, and what are the drivers and constraints that determine this. These are the subjects of further reflection and analysis in the final part of the chapter which discusses the regulatory and labour relations contexts of the TUPAs’ activities, explores the kinds of strategies they adopt to support workers (and owner-managers) in MSEs to achieve improved OSH arrangements and asks what particular contribution is made by TUPAs to these outcomes in Italy.

4.2 MSEs in Italy

By way of background to the present chapter, this section presents a brief overview of the role of MSEs in the Italian economy and the wider contexts of change in the structure and control of employment of which they are a part. It then outlines what is known concerning health and safety outcomes in these enterprises and something of the institutions and procedures that are relevant to the governance of labour relations within them and therefore help determine both the role of TUPAs and the institutional factors that support them.

4.2.1 The presence of MSEs in the Italian economy and their wider contexts

The Italian economy has one of the lowest average enterprise sizes in Europe, standing at just 3.7 employees in 2013. The proportion of micro enterprises is also substantial, accounting for 95% of all industry and service businesses and 47.5% of employees. Micro enterprises are particularly common in the construction and services sectors, where they employ 67% and 54% of employees respectively (ISTAT, 2015). Other subsectors with high proportions of micro firms include: wholesale and retail trade; repair of motor vehicles and motorcycles; professional, scientific and technical activities; accommodation and food service activities; and manufacturing. Agriculture is, of course, also dominated by micro firms, as well as by seasonal and temporary work (ISTAT, 2015). In addition, micro enterprises tend to occupy regional and local markets



(63.3% compared with 36% among larger firms whose main business engagement is with similar markets) and the majority (84.3%) are family-run (ISTAT, 2014). The country is also characterised by considerable regional variation, and regions with the highest incidence of employees in micro and small enterprises are found in southern Italy. For example, more than 60% of employees work in companies with 9 or fewer employees in the southern regions of Calabria, Molise, Sicilia, Sardegna and Puglia.

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In addition to the large-scale presence of MSEs, the Italian economy has a high incidence of non-standard contracts and outsourcing, with the latter described as an 'ordinary practice' (ISFOL, 2012, pp.157) used, as elsewhere, to reduce costs and increase efficiency and competitiveness. Short-term contracts, as well as 'flexible' or 'atypical' contracts and self-employment, are all also very common (Berton, Richiardi and Sacchi, 2009). Furthermore, subcontracting is not only much in evidence in the private sector, but is also spreading within public administration: it currently represents 15.9% of GDP, and has been associated with several negative consequences, including:¹⁶

- the orientation of tenders towards reducing public spending rather than increasing efficiency
- further fragmentation into numerous subcontracts
- illegality, corruption and rule-breaking

Indeed, trade unions argue that, in 'labour-intensive' sectors in particular, subcontracting is mainly used to reduce labour costs and workers' OSH protection (Lai, 2011). Similarly, the Italian economic context has been described as being characterised by competition based more on lowering labour costs than on innovation (Butera and De Michelis, 2011) and the phenomena of widespread illegality in employment, ranging from the evasion of labour rights (through 'black' or 'grey' work), to corruption (Di Giacomo and Montanari, 2010), and even near slavery working conditions for migrant workers in agriculture in southern Italy (Galossi, 2017). The consequences of these trends are presented in the snap-shot facts and figures given in Text Box 4.1.

Work in MSEs, therefore, takes place within the wider contexts of business restructuring in which the features of the fissured workplace (Weil, 2014) are much in evidence and where MSEs often occupy the lower tiers of long supply chains where competition on price and delivery requirements is fierce and investment of scarce resources in OSH is likely to be limited. Moreover, such work occurs in scenarios in which security of employment is weak, where employment rights enjoyed by workers in larger establishments are absent, and where informal and illegal employment practices are common. The consequences for the safety and health of workers in such contexts are, therefore, of some concern. And, as in other countries, all these developments pose significant challenges for conventional ways of organising workers' collective actions to protect their safety and health.

¹⁶ Commissione per lelaborazione di misure in tema di trasparenza e prevenzione della corruzione nella pubblica amministrazione, 2012.



Text Box 4.1: Some data on the Italian context¹⁷

Some data on the Italian context ¹⁸
In 2015, 22,894,000 people were in employment (429,000 less than in 2007).
Between 2007 and 2015, the percentage of people looking for work doubled, going from 6.1% to 11.9% (the latter exceeding the EU average of 9.4%).
2015 saw a decrease of 0.8% in the unemployment rate compared to 2014, the first drop in 8 years. However, this can be attributed mainly to tax incentives introduced with the Stability Law of 2015, as well as the introduction of the 'permanent employment contract with rising protections against unfair dismissal' in the Jobs Act.
Youth unemployment is among the highest in Europe: it increased from 20.4% in 2007 to 40.3% in 2015. The NEET rate (those aged between 15 and 29 and 'not in education or training') is also one of the highest in Europe, increasing from 18.9% in 2007 to 25.7% in 2015.
The share of employees on fixed-term contracts rose from 13.2% in 2007 to 14.1% in 2015.
Part-time work increased from 13.1% of workers in 2007 to 18.3% in 2013, and is now much more commonly involuntary, with the proportion of part-time workers wanting more work having doubled from 39.3% in 2007 to 65.6% in 2015.
At 23% of all workers, Italy has one of the highest rates of self-employment in Europe, and this has remained stable over the last ten years. In 2015, those in self-employment included: 1,327,000 freelancers, 3,234,000 self-employed, and 3,604,000 in other forms of contract work (the equivalent of being self-employed without employees).
In 2012, 18.2 million people (29.9% of the population) were at 'risk of poverty or social exclusion' - above the European average of 24.8%.
The Italian productive structure is based on micro and small businesses. During the 2009 economic crisis, fragmentation increased: the percentage of workers employed in small businesses (with fewer than 15 employees) increased from 36% in 2007 to 40% in 2012, which had a negative impact on contract-based employment rights (since the Workers Statute applies only to businesses with more than 15 employees).
Between 2011 and 2016, employment grew in the qualified professions in services and commercial activities (+403,000) as well as in intellectual, scientific and highly specialized professions (+ 330,000). However, at the same time it increased in the non-skilled professions (+268,000) and fell among artisans, skilled workers and farmers (-579,000) and in the executive professions in office work (-106,000).
Migrant employees are concentrated in a few sectors: community and personal services (37%); building (19.2%); agriculture (13%); hotels and restaurants (15.8%); and transport (11.7%). During the last five years the proportion of migrant workers has increased, especially in these sectors, confirming a trend towards the use of the migrant workforce in low-skilled and physical work.

4.2.2 Injuries, fatalities and work-related ill-health in MSEs in Italy

Long term trends in Italy, as shown by official statistics, are characterised by a decrease in injuries at work and an increase in occupational diseases – though, as elsewhere, these figures are acknowledged to suffer from the usual challenges to the accuracy of officially reported data. Nevertheless, according to such figures occupational injuries and diseases are concentrated in: manufacturing; construction; wholesale and retail trade; repair of motor vehicles and motorcycles; transportation and storage; human health and social work activities; and agriculture; with the incidence of occupational diseases being particularly high in the latter. As indicated above, many of these sectors have high proportions of MSEs, but analyses suggest no significant difference in injury rates by enterprise size within sector. However, as is widely acknowledged, this may be a reflection of problems of reporting, since fatal injuries (which are generally more accurately recorded) are more in evidence in smaller enterprises than in their larger counterparts in Italy (Smuraglia, 2008). Indeed, one trade union territorial representative who participated in the present study suggested explained such differences between the reported incidence of fatal and non-fatal injuries in MSEs as follows:

¹⁷ Based on ISTAT and Eurostat data.

¹⁸ Based on ISTAT and Eurostat data.



The underestimation of accidents in small businesses is a result of the presence of irregular work, occupational blackmail, and the high proportion of family businesses in which non-reporting is particularly common.

Trade union territorial representative (RLST)

4.2.3 Industrial relations systems and representation on OSH in MSEs

The representation of workers' interests in their safety and health outcomes is mediated by the institutions and procedures of labour relations in the enterprises in which they work, as well as those in the wider sector and national contexts in which those enterprises are embedded. In order to understand the support and constraints for such representation, as well as its potential to improve the safety and health of workers in MSEs, it is necessary to know something of these institutions and procedures.

The Italian system of industrial relations for the private sector is dominated by voluntary approaches to collective bargaining based around tripartite social pacts and inter-confederate agreements. Such agreements are forms of 'private law' based on the self-regulatory capacity of the signatories.¹⁹ Despite the absence of public law, collective bargaining is estimated to cover around 80-90% of all wage earners. According to OECD data, union membership among active employees in Italy reached 37.3% in 2013. However, the exception here is the public sector where, since the late 1990s, Legislative Decrees no. 296/1997 and 165/2001 (article 43) have determined the selection of representative unions entitled to negotiate on behalf of employees.

Under a framework agreement reached in 1993, Italian collective bargaining is based on a two-tier system comprising national sector-level collective labour agreements (*Contratti Collettivi Nazionali di Lavoro, CCNL*) and decentralised collective agreements at company or territorial level. The latter are used where companies are small and unions weak (i.e. in particular in agriculture, construction, retail, and tourism). These two levels of collective bargaining are hierarchically organised, with the national agreements establishing a basis of rights and standards.

The Workers Statute 1970 regulates the employee and trade union representative structure at company level (*Rappresentanze Sindacale Aziendale, RSA*). In workplaces with 15 or more employees, following the tripartite social agreement of 1993, a workers' representative (*Rappresentanza sindacale unitaria, RSU*) may be nominated by the unions involved in the industry-wide agreement applied in the workplace and elected by the employees. However, in workplaces with fewer than 15 workers, there are no such rights to workplace representation. Therefore, in sectors with very high proportions of MSEs, and/or of seasonal or fragmented work, and where employment has traditionally been unstable and trade unions are weak at the workplace level (such as in construction, crafts, agriculture, retail and tourism), unions and employers' associations have also established bipartite joint bodies and funds, originally as a form of collectively agreed welfare provision, in a system known as 'bilateralism' (*bilateralità*)²⁰. Bilateralism was originally established in the building sector (the first 'Cassa edile' was founded in Milan in 1919), as a channel for collaboration between employers' associations and trade unions, with the aim of administering financial resources to provide benefits to workers in critical circumstances (such as illness, occupational injuries and unemployment). In addition, a system of bilateral bodies was set up in the early 1980s in other sectors where the institutions of industrial relations were weak, and where there was a high prevalence of micro enterprises, unstable employment, high employee turnover, and atypical and undeclared work, as well as limited trade union presence. Such conditions are common in craft, commerce and tourism, and bilateral bodies are now frequently found in these sectors.

Similar initiatives have been taken by the social partners in relation to temporary agency work, and also exist in other segments of the tertiary sector (such as banking, the post office and aviation) that are not covered by the workers' protections available elsewhere. Bipartite joint bodies and funds now deal with issues such as: complementary pension schemes; supplementary health insurance; unemployment benefits; training; and work-life balance and wellbeing at work; but also, and importantly for our purposes, arrangements for health and safety. Bilateralism thus provides a structured and effective form of joint participation.

¹⁹ For an analysis of the Italian system of industrial relations, see Carrieri and Pirro, 2016; Leonardi and Sanna, 2015.

²⁰ For an analysis of the bilateral system in Italy, see Leonardi, 2005; Sandulli et al., 2015.



Encouraged by recent legislation, hundreds of bilateral funds have been established in many sectors and branches, along with a multitude of collective agreements which regulate them.

4.3.4 Arrangements and procedures for representing workers on OSH

The bilateral system described above relates to and interacts with the system for regulating preventive arrangements on OSH.²¹ The latter is governed by the Ministry of Labour and Social Policies and the Ministry of Health. They work with the National Insurance Institute for Health and Safety at Work (INAIL) to produce legislation, information and assistance, and to form technical working groups, which include representatives of the social partners, as well as professional, scientific and other associations and institutions. At the local level, regional public administration works with local public health boards (ASL), public inspection services, fire services, social partners (including the bilateral bodies described in the previous section), and regional INAIL services, to operationalise laws, support OSH prevention and supervise compliance with legal requirements.

The legal basis of arrangements for worker representation in relation to this system is found in Legislative Decree no. 81/08. While industrial relations institutions and procedures in Italy are, as previously described, characterised by voluntary collective bargaining, the provisions of this decree create three types of health and safety representatives (*Rappresentante dei Lavoratori per la Sicurezza, RLS*), at company level (RLS), territorial level (RLST), and multi-employer site level (RLSSP). Procedures for their election or appointment are established in the social partners' collective agreements.²² We are primarily interested in RLST, as these are the representatives most involved in/acting as TUPAs. However, in certain cases both RLS and RLSSP can also be relevant.

The RLS (at company level) is an employee elected or appointed to represent workers with regard to health and safety at work. Their number is decided by collective agreement, but the law also lays down a minimum: 1 RLS for up to 200 employees; 3 for 200 to 1,000 employees; and 6 RLS for companies with more than 1,000 employees. For companies with fewer than 15 employees, an OSH representative at territorial level (RLST) may be elected or appointed if the workers have not elected their own representative at company level. The RLST has the same rights and tasks as the RLS and can access the companies' workplaces at the territorial level under their jurisdiction. Collective agreements establish the format, duration and specific content of RLST training (which includes a minimum of 64 hours' initial training). The RLST is prohibited from undertaking other operational functions for the union.

The workers' OSH representative at productive site level (RLSSP) covers worksites such as harbours, intermodal transportation centres, steel plants and construction sites with at least 30,000 'worker/days',²³ where production contexts create complex problems related mainly to the fragmented OSH management arrangements created by multiple employers operating on the same site.²⁴ RLSSP are chosen from among the existing company safety representatives on the site. They take on a leadership and co-ordinating role for OSH representation on the site and have access to the senior management responsible for OSH at the site level. In addition, they have similar rights to other OSH representatives in relation to receiving information, training appropriate to their tasks, and undertaking representative actions. Procedures for their appointment are again established by the social partners' collective agreements. They are relevant to the representation of workers in MSEs because, of course, many small firms are engaged in contracting and subcontracted work tasks on such large multi-employer sites. However, empirical data on their role specifically in relation to MSEs is lacking, and although we undertook interviews with RLSSP who were active in the port of Genoa for the present study, in the main they acted in ways similar to senior OSH stewards or convenors, working primarily with RSUs from multiple companies which were active in the port but which were large enough for the workers to have elected their own RSU. We therefore found little specific detail on how they represented the interests of workers in MSEs without RSU.

²¹ For an in-depth analysis of the regulatory system on health and safety and on the role of OSH representatives, see Campanella, 2008; Zoli, 2011; Ales, 2011; Guariniello, 2017; Lai, 2017; Natullo 2015.

²² RLS and RLST were set up by the previous Legislative Decree 626/94.

²³ A calculation that is designed to take account of the total number of working days required to complete a construction project, and which is normally applied complex sites with an average of 500 workers.

²⁴ For an analysis of the role of OSH Representative in complex site, see Angelini, 2017.



Legislative Decree 81/08 (article 51) also establishes the role of regional joint bodies (*organismi paritetici*). These are created by the employers' and workers' associations most representative at national level. They support companies in identifying technical and organisational solutions aimed at ensuring and improving the protection of health and safety at work. Members of these bodies with specific technical skills in the field of health and safety at work may visit companies in their territories and in the productive sectors that come under their competency. The joint bodies can also promote and run training activities, again using inter-professional funds (article 118 of the Law of 23 December 2000, no. 388, and article 12 of Legislative Decree 10 September 2003, no. 276). As indicated above, these joint bodies are promoted by the representative organizations of the social partners, through specific Inter-confederate Agreements stipulated by the employers and trade unions. They are resourced by the companies through part of the mandatory 'contributions for involuntary unemployment' that made to the National Institute of Social Security (INPS).

The joint bodies are required to communicate the names of the workers' OSH representatives at territorial level (RLST) both to companies and to the local inspection authority. They further communicate the names of those companies that have joined the system of joint bodies and the names of the RLST to INAIL (National Insurance Institute for Employment Injuries). In addition, the joint bodies are the first point of reference in disputes about rights of representation, information and training (as set by current regulations), except in situations that are provided for by collective agreements.

Currently, the presence and activity of regional joint bodies for OSH varies greatly between sectors and regions and, as one of our trade union participants put it:

They are stronger and are present across the country in the building and artisan sectors.

Trade unionist

In the building sector, the local trade union delegates for OSH were established before the requirements of Legislative Decree 626/94 – on the bipartite joint funds (*casse edili*) – and there are currently 102 Territorial Bilateral Joint Committees in the provinces (*Comitati Paritetici Territoriali, CPT*) organised in a network by the National Bilateral Joint Commission (*CNCPT*). In the artisan (craft) sector, there are both Regional Bilateral Joint Bodies and Territorial Bilateral Joint Bodies (*Organismi Paritetici Regionali e Territoriali per l'Artigianato, OPRA and OPTA*) organised in a network by the National Bilateral Joint Body (*OPNA*). However, there is considerable fragmentation in these bodies' functioning, as well as in the role of RLST, relations with the company at local level, and the extent of local membership, industrial relations, and the role of social dialogue and relations with local institutions. In addition, there are significant differences between regions in north and south Italy in relation to all these activities.

Each member company pays an annual fee (per worker) to the bilateral bodies, with workers also making a contribution. Fees for the work of the RLST are calculated in several ways, such as: by setting contributions in relation to the number of workers; or by fixed annual amounts. Usually, these funds are used to pay both the RLST and for administration, prevention activities and training. Each region can use its funds with a high degree of autonomy, and so there are many differences at regional and territorial levels in terms of the presence of the unions, the numbers of RLST, and their practices and role.

Usually RLST are not elected but are nominated by the unions. For example, a national trade union official in the artisan sector who participated in the study indicated:

There are about 300 RLST in the artisan sector and about 400 in the building sector, with the distribution of RLST related to the total amount paid by the companies and by the local administration of these resources. However, nobody knows the exact numbers.

National trade union official

All RLST have to report their activities to the regional bodies with the aim of coordinating health and safety strategies, but reporting activities are also organised in different ways between regions, which creates something of an obstacle to the development of more global prevention strategies. As another trade union official put it:



One of the main problems of these bilateral bodies is the difficulty of having relations with the local institutions. This is a big gap.

Unionist, board of the OPNA

It was clear from the context of this remark that the interviewee was referring to public administrative bodies (such as the ASL and INAIL), but he could not be drawn on precisely why these relations might be difficult. To address the problems of the largely voluntary and uneven development of the role of these bodies, Legislative Decree 81/08 (article 52) also establishes a fund at INAIL to support small and medium enterprises, workers' OSH representatives at territorial level, and joint bodies. At present, however, this fund is not operative because the Ministry for Labour, Health and Social Policy has yet to define its rules and functions – something that must be done in consultation with the Ministry of the Economy and Finance, and after consultation with employers' associations, trade unions and the standing conference for relations between the state, regions and autonomous provinces. According to Legislative Decree 81/08 (article 52), the fund should support sectors where there are no joint bodies established by agreements between the social partners by:

- supporting and financing the activities of RLST, including their training
- financing training for employers in small and medium enterprises, seasonal agricultural workers and self-employed workers
- supporting the joint bodies

Resources for the fund – and therefore also for the work of RLST – should be financed by a contribution of two hours pay each year for each employee from companies without a RLS (the calculation of the number of workers is based on full-time work of 8 hours per day). The health and safety authorities are charged with responsibility for collection of these contributions and with organising payment for the work of RLST, while RLST should provide an annual report for the fund on the activities they have carried out.

4.3 Previous research on the impact of the Italian system for representation on OSH in MSEs

INAIL has undertaken quite extensive research on the operation of the prevention system through the INSULA project.²⁵ This research program aimed to analyse the role of the various players in the system by carrying out a series of surveys specific to the various groups involved, including: workers and employers; workers' OSH representatives; company managers for OSH prevention and protection; competent OSH doctors; and those providing services for workplace prevention and safety. Through this initiative, research on the role of RLS (Buresti et al., 2014) was conducted on a sample of 600 respondents in three regions in Centre-North Italy (Tuscany, Marche and Emilia Romagna). It focused on the role of RLS at company level, but also provided some information about RLST and RLSSP, indicating, among other things, that there was a lack of appropriate training for many (56.5%). Surveys carried out since, as well as our own study, suggest this may have been addressed.

More recently, in partnership with the Politecnico di Milano, Fondazione Di Vittorio and Università di Perugia, and with the support of the trade unions (CGIL, CISL and UIL), INAIL financed and carried out a second INSULA research programme (IMPACT-RLS) (Cagliano et al., 2017). This research was based on a wider sample and used different methodologies, including: a survey with 2 questionnaires for national samples of 2,109 RLS at company level and 115 RLST at territorial level; and qualitative research comprising in-depth interviews with RLSSP. As described in the research report, the RLST sample was characterized by a high incidence of representatives in the construction (55% of the sample) and artisan sectors (43%), and fewer operating in services (11%) and agriculture (4%). Most of the respondents were men (88%), and their average age was 48 years. The majority had been selected by the trade unions or by the Territorial Joint Body, with only 10% elected or designated by workers, and almost all (98%) had completed the mandatory training. For just over half (54%) of the RLSTs, their first contact with companies was the result of their own approach to those companies, while for 29% it followed an approach by the joint bodies, with just 18% the result of an initiative taken by the company itself. While 77% of respondents claimed to have access to workplaces in all or most of the companies they covered, many reported difficulties in accessing internal company information and low involvement in decisions relevant to OSH. Most could access the companies' written risk evaluations

²⁵ https://www.inail.it/cs/internet/comunicazione/pubblicazioni/catalogo-generale/insula_i_report_dell_indagine.html



(the DVR), but less than a third found that these had been compiled in compliance with the regulations. Respondents also reported experiencing many difficulties in their participation and involvement in the prevention system at company level, with about 40-50% of respondents saying they were never consulted by companies on many elements of risk prevention (such as the analysis of accidents or suggestions for improving protection). Even when they were consulted, only 20% reported in-depth consultation. Just over half the RLST were able to communicate an opinion, but reported that there was no negotiation (10%), or they were only informed (23%) or, in the worst cases, they were neither consulted nor informed (21%). Micro companies were identified as being particularly problematic in this regard, with respondents suggesting that many were concerned about the 'risk of interference' in production as a result of involvement with the RLST. The majority of RLST also felt isolated in the local prevention system, with a lack of institutional support and, in particular, non-existent or conflictual relationships with: public administration (54% of respondents), local institutions' occupational doctors (53%), INAIL (48%), and local health and inspection services (37%). At the same time, and perhaps not surprisingly, they reported collaborative relationships with trade unions (87%), workers (87%), other RLST (86%) and joint bodies (84%).

As far as the RLSSP were concerned, the results showed them to be especially present in ports, major construction sites and the sites of large trade fairs and exhibitions, though they reported difficulties in developing their activities in shopping centres and airports (where their presence is also theoretically possible). The research showed differences at national level in relation to various working contexts, working conditions and agreements governing their role, and indicated that they faced further difficulties in coping with work fragmentation. However, it also suggested that the introduction of RLSSP provided opportunities for improving workers' health and safety protection, as RLSSP were seen as able to cope with the substantial complexity of productive contexts characterized by considerable fragmentation as the result of multiple companies (including MSEs) at the same site, and labour intensive processes, operating on continuous cycles, with a high turn-over of both companies and employees (Cagliano et al., 2017). Although relations with workers in MSEs on these complex sites were not the focus of this work, the research indicates that the actors involved were positive regarding the usefulness of the RLSSP (Cagliano et al., 2017). While their role was characterized by continuous challenges, it was widely seen to be useful and, because it was based on agreement between the employers and trade unions, it also presented numerous opportunities to establish the possibility of a prevention system that was appropriate to address the risks of complex production sites. Larger and more structured production sites allowed RLSSP to be more effective in using specific provisions contained in collective agreements. In these circumstances, there was more evident awareness of health protection issues and workers' safety. In parallel to these positive aspects, it was also acknowledged that the RLSSP faced a number of critical issues in successfully carrying out their role. Firstly, there was often a difficult relationship with individual workers employed on the production site, due to the lack of time and provisions allocated for consultation and discussion in the contract or legislation. Equally, problems were reported in the relationship with individual companies operating on the production site. This was often due to their heterogeneity, both in terms of size and activity, but was mainly caused by the differing extent of the presence and nature of a work safety culture among them. Another critical point emerging from this analysis was the coordination between the RLSSP and RLS who represent each individual company involved in production. A final aspect that should be highlighted was the lack of training taking into account specific risks and special working conditions present in complex production sites where the combination of several production organizations in a single working area may generate specific conditions of risk.

Overall then, the existing research on the presence, role and effectiveness of trade union arrangements to support workers in MSEs through the engagement of TUPAs shows such engagement to have rather mixed results. There is regulatory support for them and for the bipartite institutions that provide them with training and resources. But their presence is far more obvious in some sectors than in others, and in the more industrialised and traditionally unionised north of the county in comparison with the south. They offer a wide range of potentially useful contributions to preventive actions on OSH in small firms where there is little collective organisation, but reports of practice suggest many barriers to the effective realisation of this potential. Most such barriers can be related to the features of the owner-managers of micro and small firms described in Chapter 3, which militate against them taking advantage of any form of external support for OSH and cause them to regard such intervention as unwelcome and unnecessary interference with their business, which they have little time or cause to prioritise. Other barriers also reported in the overview in Chapter 3, such as ignorance and poor OSH skills among owner-managers in MSEs, mean that even when the representatives gain access to these firms, low levels of knowledge and skills among their inter-locutors contribute further to making their tasks difficult. Nevertheless, the results also show some potential for



successful outcomes that may be related to the skills of RLST, the institutional support they receive from the bilateral system and the fact that they represent a substantial resource for face-to-face communication with workers and owner-managers in MSEs. To explore these matters further we turn to a series of findings from the present study.

4.4 Some recent examples of experiences of RLST and RLSSP

As outlined in Chapter 2, in Italy we sought information on RLST activities and also on the relevant activities of RLSSP at various levels in several different sectors and locations. Most of the inquiry focused on four cases illustrating examples of these activities in northern Italian regions around Milan, Rome, Prato, and Venice, mostly involving the craft and construction sectors. However, the research also included interviews with key players with a national perspective, as well as, in the case of RLSSP, an example of activities in the port of Genoa.

The first of the four cases sought information on arrangements for TUPAs in Lombardia where, according to official statistics, there were 759,392 enterprises with 9 or fewer employees (in total employing 1,364,682 workers) (ISTAT, online data-base, 2018²⁶). Our informants were drawn from Milan, where there were 6 RLST covering the artisan sector (2 CGIL, 2 CISL and 2 UIL), operating with the support of the local bilateral body (OPTA). Their workload was substantial because in the artisan sector in the area they covered there were 282,828 enterprises with 9 or fewer employees (accounting for 477,251 workers), and 6,800 companies with fewer than 15 employees.

The second case involved interviews with participants in Rome (and the region of Lazio). In the region of Lazio there were 409,655 enterprises with 9 or fewer employees (employing 677,729 people), with a lower incidence in Rome, where 32.5% of the work-force was employed in the micro-enterprises. The RLST we focused on were active in the building sector, in which 42,822 enterprises (nearly 96%) had 9 or fewer employees, accounting for 17,723 workers (60% of the total) (ISTAT, online database, 2018). Participants were mainly RLST from Rome (where there were 6 RLST) and Latina (3 RLST), though in some cases the same RLST worked in both provinces because of the distribution of companies. The third case was in Tuscany, where there were 305,150 enterprises with 9 or fewer employees (employing 580,250 workers). In Prato, where the study was focused, there were 25,917 such enterprises (accounting for 55,563 employees, 60.6% of the workforce) (ISTAT, online database, 2018), and just 3 RLST.

The final case drew informants from the Veneto Region where there were 368,203 enterprises with 9 or fewer employees (employing 1,364,682 workers), with a more or less equal rate of workers employed in micro companies among the provinces (40-50%) (ISTAT, online database, 2018). Here there were 21 RLST in the artisan sector, organised in 3 local associations related to the confederal trade unions: ART-Al lavoro sicuri (CGIL), F.R.T.S.A.V. (CISL) and Associazione Regionale per la Sicurezza (UIL).

As is clear from these structural differences, there was considerable variation in the coverage and scope of the schemes involving TUPAs — as indeed was suggested by the second INSULA project summarised in the previous section. Nevertheless, there were also similarities in the basic profiles of the arrangements reported to us. That is, TUPAs participating in our study had, for the most part, been appointed by the trade unions, and they were experienced trade union representatives who normally operated in close conjunction with the bilateral bodies supporting their activities. They expressed a range of views concerning the importance of the support for their activities, and especially concerning the importance of co-operation between employers' associations and trade unions, as well as public regulatory institutions and small business organisations, in helping to ensure some degree of legitimisation and acceptance of their role among MSEs. However, there were also examples of RLST being able to function effectively in more hostile labour relations climates where there was only partial institutional support. The following sub-sections provide indications of what the experiences of representatives and other participants in the study suggest concerning the determinants of effective actions, as well as some of the variations in this experience illustrated by the different regional schemes included in the study.

²⁶ http://dati.istat.it/Index.aspx?DataSetCode=DICA_ACDP



4.4.1 The success of co-ordinated actions

Generally, RLST enjoyed more positive co-operation from owner-managers and workers in MSEs when they were operating as part of wider co-ordinated OSH initiatives. For example, as outlined in Text Box 4.2, in Milan there was a co-ordinated action involving RLST and RLS that took place during the development and operation of Expo 2015, a large exhibition event hosted by Milan in 2015.

Trade unionists interviewed in the present study regarded the co-ordinated actions taken to support the prevention programme for this event as having successfully allowed them a clear role in the prevention system. This is not to say that they believed the arrangements solved all the difficulties in co-ordinated preventive actions for such complex construction projects; rather, and as one trade unionist commented:

The structural short-term presence of employers and workers in the Expo, made building relations and sharing a common culture of prevention difficult.

Trade unionist

Another example of co-ordinated action was seen in the operation of the ‘Observatory of Work’²⁷ – an institution established by the municipal administration in Rome (see Text Box 4.3). Its aim was to check that OSH legislation was correctly applied and to implement strategies to contract municipality outsourced services and other work activities through public tenders and subcontracting. Unfortunately, it appears that the Observatory of Work ceased its activities in 2017 and future co-ordinated activity is uncertain.

²⁷ Osservatorio sul lavoro: https://www.comune.roma.it/pcr/it/uo_politiche_per_il_lavoro_1.page



Text Box 4.2: RLST in Expo 15

RLST in Expo 15

Expo 2015 involved the construction of a major exhibition site, with 143 buildings and 145 national exhibits occupying an area of 1,100,000 square metres. It included 200 separate construction sites and 10,000 workers were involved in the final phase of its development. The relevant institutions and social partners made a number of agreements to implement prevention actions as part of their planned prevention system for the event. They created a 'centre for the culture of prevention in working and living conditions' with the collaboration of Milan City Council (Direzione Centrale Politiche del Lavoro, Sviluppo Economico e Università), ATS Milano, INAIL (Direzione Regionale Lombardia), Direzione Territoriale del Lavoro di Milano, Vigili del Fuoco di Milano and la Consulta Interassociativa Italiana per la Prevenzione (CIIP). This centre organised conferences, seminars and meetings on a weekly basis throughout Expo 2015.

The social partners agreed 'protocols for the exhibition site' (between Expo 2015, CGIL, CISL, UIL Milan, FILCAMS-CGIL, FISASCAT-CISL and UILTUCA-UIL Milan) which addressed how social dialogue and prevention systems should operate during the development and running of the exhibition. The part of the agreement related to OSH established that social partners should have an office within the Expo site, and that there should be an OSH committee made up of representatives of Expo 2015 S.p.a. (the major contractor company, the national, regional and local public institutions and the companies on the Expo site), and including OSH representatives at both company and site levels. This committee was to hold monthly meetings, with data and information to be shared between all players, as well as with external players such as the RLST and bilateral bodies.

A protocol in 2013 introduced RLSSP for the 'productive site' and for all phases of Expo 2015 (including its construction, the exhibition and events themselves, and its subsequent dismantling). Three RLSSP were chosen by the trade unions. With the collaboration of INAIL, ASL and Milan Metro, 24 hours of training on OSH topics was provided for RLS and supervisors. The RLSSP provided a link between the elected RLS in the companies on the site and the other players within the prevention system. Companies without RLS assigned this role to RLSSP, through a declaration by the employer.

The arrangements were seen as comparatively successful in terms of OSH outcomes. Ninety-nine accidents occurred during the construction of EXPO (between 2011-2015) with an overall incidence rate of 27 per 1,000 workers (including among the subcontracting companies). According to Expo 2015 S.p.a. official data, this is lower than the incidence rates of other complex building sites, such as the construction of the TAV Milan-Tourin railway and the 2006 Tourin Winter Olympic games.

Nevertheless, securing compliance with OSH protocols in the face of the presence of multiple subcontracting companies in the lower tiers of supply chains was acknowledged to be a significant challenge throughout the construction and operation of the event.



Text Box 4.3: The Observatory of Work – Rome

The Observatory of Work – Rome

The Observatory was set up to address OSH issues in relation to services from private operators that were contracted out by the Municipality. It also promoted agreements with public entities and joint bodies aimed at implementing social dialogue, training, and information and awareness initiatives on issues of safety at work and irregular work. In relation to RLST, it promoted a joint strategy to control building sites and improve OSH. A task force of municipal police officers, experts from the Observatory, technicians from the bilateral body and RLST visited more than a hundred workplaces each year, working two or three days each week. RLST found this experience really useful:

It was not a way to penalise the company but to strengthen the collaboration between the public institutions, trade unions, public health services and the companies.

RLST

It was further considered a particularly useful way to deal with OSH problems, especially because of the tripartite support it provided for RLST:

The institution plays a fundamental role in helping RLST in their work. Through their collaboration they strengthen and legitimise this role.

RLST

4.4.2 Legitimising the role

The question of the legitimisation and acceptance of the role of RLST recurred in several of the examples we studied and there was little doubt that the support of the bilateral bodies at local, sector and national levels was seen as significant. In Milan, for example, representatives indicated that, through an agreement between trade unions and employers' associations, the bilateral body at territorial level in the craft sector (OPTA) shared information on the role of RLST with trade unions and employers' associations, and had set up a formal procedure for contacting and accessing companies because, as one interviewee representing the employers put it:

The first step, when contact has to be made with the company, is an important phase; companies need support and not just controls, and they need to understand the role of RLST in this regard.

Employer

In the construction sector in Rome, RLST cooperated with the bilateral bodies while still retaining a high degree of autonomy. They were based in the bilateral body's offices, but the amount of travelling involved in their work meant they spent comparatively little time there. In Veneto, the Regional Joint Body for the artisan sector (COBIS)²⁸ aimed to support employers in small firms by offering them several ways to contact and build relations with RLST, as well as with the joint body, in order to comply with statutory requirements on OSH or undertake prevention activities. COBIS had developed a website with a list of detailed contacts and information about RLST.

4.4.3 The importance of training

The RLST participants were well trained and generally reported positively on both the provision and their experience of training. In Rome, for example, RLST in the construction sector reported many opportunities for training (usually provided by the local bilateral bodies), with a provision of 120 hours of initial training. However, they valued training sufficiently highly to suggest there could never be sufficient provision, since experience and support for specific OSH problems were always essential. In Milan, specific training for RLST was provided by the Regional Bilateral Body (OPRA), while the OPTA supervisors participated as teachers or in workshops. RLST were also sometimes involved in providing training themselves. For example, in Veneto the bilateral organisation, COBIS, developed 'participatory training'. During the four hours of general training

²⁸ <http://www.cobis.it/sistema-bilaterale/rlst.html>



that was compulsory for all workers, two hours were devoted to the active participation of RLST, something that was found to be highly useful in promoting their role, and understanding of it, among workers in MSEs. As one RLST in the region told us:

These practices give RLST the opportunity to meet many thousands of workers in all the sectors and provinces.

RLST

4.4.4 Different ways of organising RLST actions

There were also differences observed in the ways RLST went about their work in the different regions included in the study. In Milan, for example, a high level of fragmentation and diversification of companies at the local level meant RLST strategies were often oriented towards project-based work, where planning was essential to enable better focus:

It is really important to work following some specific projects, because in the sector there are mechanics and beauticians, and there also are many small companies with family management; but also a number of companies which have a high degree of internationalisation, and automation increases the complexity of the organisation of work, so we might also find a very small company with complex management. Also, the working shifts are very different, and we might find a small company, such as a bakery, with 24-hour shifts.

Trade unionist

OPTA had endeavoured to organise the work of RLST to focus in particular on one sector each year. For example, it had focused on car repair shops in 2016 and commercial beauty treatment facilities in 2017. As one RLST from this region said:

An RLST is not omniscient. Therefore, RLST visits by sector must be planned in order to support the RLST, as well as through adequate training.

RLST

OPTA divided the territory of Milan into areas and each RLST operated in one of them. In addition, to address the consequences of the number and highly fragmented profile of MSEs in the metropolitan area of Milan, it had worked with an IT company to build a geolocation program to help RLST find companies and access information about their businesses.

RLST met each month with their supervisors at OPTA, and each RLST was required to produce a ‘fact sheet’ with information about their work, including the number of visits made to companies, their main actions and relevant supporting documentation.

Similarly, in Veneto, where the emphasis was on co-operation between companies, RLST and the bilateral body, COBIS, maintained a strong presence in the territory, with local offices for OSH in all the provinces. As described above, the region was relatively well-provided for in terms of numbers of RLST, and participants indicated that co-operation between the peak organisations was an important determinant of the relatively generous resourcing for the scheme. The presence of local offices allowed companies to fulfil their obligation to consult RLST and for the latter to respond to their needs. Owner-managers whose companies were part of the scheme could, for example, deposit their documented risk assessments at the office, thus giving RLST an opportunity for initial scrutiny and enabling them to request further information, and so to support prevention strategies. COBIS had also established ‘provincial commissions’, which were joint structures that aimed to develop monitoring and research activities at sectoral and territorial level in collaboration with universities, and to coordinate the activities of RLST and the local OSH offices, defining strategies for prevention at all these levels. As one trade unionist said:

These tools are used to build networks and to provide a neighbourhood support structure for workers and companies.

Trade unionist



In Rome, in contrast, our informants acknowledged that there was considerable heterogeneity in the operation of the construction sites on which they focused. As one RLST put it:

Each site is different from the next, so it takes a lot of experience to be able to understand how they work.

RLST

Each RLST visited the temporary construction sites registered with the bilateral bodies (about 30 sites for each RLST), as well as attempting to visit unregistered construction sites (with about a hundred visits in a year). For each assigned company, the RLST usually requested an annual meeting with the players in the prevention system (usually the employer and external OSH consultant). Because of the temporary nature of construction sites, however, RLST also gathered information on new sites themselves and built their own maps of the visits to be carried out.

During a visit they normally walked around the site together with the company's OSH managers, not in order to inspect it formally, but to help them understand the most important problems and propose solutions. Each visit lasted about two hours. After the visit, the RLST produced a written account of their findings and suggested improvement actions. Usually, they focused their attention on fairly straightforward and visible OSH arrangements, such as: access to drinking water; the presence of a first-aid kit, fire extinguishers and emergency plans; the presence and state of personal protective equipment; welfare arrangements, such as the provision of a place for rest breaks and to consume food, and problems related to excessively hot or cold temperatures. The information in the RLST account of the visit was regarded as a way to influence the site's prevention system and cooperate with employers and OSH management:

These suggestions are considered useful by the company because they can help avoid accidents and, thus, fines from the public inspection bodies.

RLST

RLST also cooperated with trade unionists and the trade union services of the local chamber of labour, in particular in less visible cases of irregular work and in relation to the potential for occupational diseases.

In short, therefore, for most of the cases on which our participants shared their experiences, the presence of competent, well trained and committed representatives who understood the concerns of both workers and owner-managers in micro and small firms was seen as an important determinant of their success. Equally important in this respect was the extent of support RLST felt they received from the peak organisations of labour, employers, small businesses and the public authorities. These determinants were generally manifest in the bi- and tripartite agreements that led to the creation of institutional support for the representatives, as well as sometimes planning and co-ordinating their activities and providing training. It is clear from the previous account that there was considerable variation in the practical means with which this support was delivered, but behind it was a common understanding that co-operative approaches to the delivery of interventions on OSH in MSEs were necessary determinants of effectiveness.

4.4.5 But co-operation is not always the way

However, this is not to say that such co-operation was always in evidence, or that RLST were unaware of conflicts of interest between the representation of labour on OSH and the business concerns of the owners and operators of small firms. Nor were they unaware that the decision latitude of these owner-managers was often limited by the market position of the MSEs for which they were responsible and the power held over them by businesses operating at the heads of the supply chains in which they were involved. Their focus, as well as that of the institutions supporting them, on a co-operative approach to intervention in MSEs seems to have been more the representation of a pragmatic strategy adopted to enable effective actions in relation to MSEs where both owner-managers and their workers were likely to be initially resentful or fearful of outside intervention. In such situations, as the literature reviewed in Chapter 3 makes clear, it is regarded as important that external change agents are able to build trust and co-operation with owner-managers and workers before their interventions are accepted. Similarly, it often becomes important that TUPAs and the institutions supporting them are regarded as politically neutral, as well as receiving sufficient resourcing to enable their actions.



But building this profile in a market environment in which the question of their economic survival is paramount for many small firms, and where there is hostility among them towards anything imagined to threaten this or the employment security of the workers that depend on it, is of course not always possible. There were, therefore, also examples in the experiences of our participants in which other strategies of intervention had been necessitated in recognition of the embedded conflict in the labour relations of small firms and the consequences of their market orientations. In Prato, for example, as previously mentioned, the challenges of the highly fragmented structure of MSEs meant that the RLST of the CGIL Chamber of Labour was concerned to develop supportive networks with unionists and trade union services, to help workers in MSEs operating in the lower tiers of supply chains. She said:

The fragmentation of the companies must not be repeated in the trade unions, and we have to try to work together, also with other RLS at company level, with trade unionists at federal and confederal level, and with the services of the chambers of labour.

RLST

In particular, the CGIL RLST managed a helpdesk for the RLS, with a website²⁹ providing several services that included: an online space for questions and requests; a set of forms and documents related to OSH norms and agreements; and a selection of useful links.

RLS need support starting from the basic operations, such as letters to employers asking for a meeting.

RLST

There were on-going actions in the hospitals and health services of Prato, with a company-by-company undertaking to involve RLS and workers in building a network. The RLST was also involved in a campaign for migrant workers (with a focus on Chinese workers in the textile sector in Prato, where they had a big presence and many problems related to OSH) aimed at improving their knowledge of health prevention systems and rights at work.

One particularly illustrative example of these conflict-based approaches was a collaboration between RLST, RLS and the CGIL Chamber of Labour in Prato, in a trade union campaign focused on a large corporate group producing and selling furniture. Here there were poor working conditions, in combination with a highly autocratic and anti-collectivist management style, both in the core company and in its outsourced and subcontracted activities. A particularly significant feature of this trade union action was the way in which it attempted to address both the conditions experienced in the core company and those that its price and delivery demands imposed on workers in the MSEs along its supply chain, where short-term contracts and very low wages were common. The trade union campaign had involved successful demands for action from the local health board (ASL), which resulted in inspection visits to the company, as well as subsequent industrial and legal actions in a hostile conflict. The RLST had followed a training course about 'community organising' with the CGIL Nazionale and said:

This experience has been really useful for building representation in a context with scared workers and high levels of individualisation.

RLST

This example confirms that, while co-operative approaches have some obvious advantages in terms of successful outcomes and may indeed be a preferred route to achieving TUPAs interventions, they require certain preconditions to be in place before they are likely to be possible. Where such preconditions cannot be found, TUPAs obviously need to adopt alternative strategies to represent the interests of workers in MSEs. This was well illustrated by the actions of the RLST in Prato. We will have cause to return to a discussion of the role and merits of conflict-based approaches to TUPAs actions in a later chapter when we compare the experiences of TUPAs in all four of the countries where we have studied their activities.

It is also important to stress that the examples that have been the main source of the empirical data analysed in this chapter are mostly from two sectors, and from northern and central Italy, which have long been argued

²⁹ <http://www.cgilprato.it/salute-e-sicurezza/>



to be responsive to such approaches (Walters, 2002). The situation in other sectors and other parts of Italy is quite different. The case of agriculture is illustrative in this respect, and provides substantial contrast.

In 2016, national sector-level collective labour agreements in agriculture established that ‘the bilateral body E.Bi.N.Ag. has the function of appointing the RLS territorial figure through the establishment of special joint committees to be set up within 90 days of signing this CCNL’ (National Collective Labour Agreement in Agriculture 2016).

However, as a trade union official commented, in agriculture, outside the large food producers organised on industrial lines, RLST are rare:

In agriculture, there are few RLST (maybe less than 30) in the whole country, across all the unions. It is difficult to organize their work at national level and the situations are different among the regions. Also, bilateral bodies are really small with few resources and employers’ associations seem less interested in having local agreements on these topics.

Trade union official

In such a difficult context as agriculture, the main actions for OSH prevention are usually oriented toward the application of the law and the defence of migrants’ rights. This involves a struggle against the prevalence of illegal employment practices and attempts to collaborate with relevant institutions and associations, as well strategies to inform and influence public opinion. Union attention on OSH issues in small farms, therefore, is strongly focused first on prioritising ways to control illegal and exploitive labour conditions (Galossi, 2017; Carchedi, Iovino and Valentini, 2016). As one trade union official put it:

To have good working conditions, first of all it is necessary to stop the slave market that is at the origin of exploitation.

Unionist

Trade unions are using several tools to address the challenges of the sector, including:

- local agreements to strengthen studies and the monitoring activities, inspections and control carried out by public institutions, in particular in relation to employment conditions and subcontracting procedures
- supply-chain agreements, such as the agreement between the trade unions (FLAI-CGIL, FAI-CISL and UILA-UIL) and employers’ associations (ANICAV and AIIPA) to establish a negotiating platform in the tomato-canning sector for the adoption of ethical standards that promote good labour conditions among suppliers
- campaigns against irregular work and exploitation, such as the ‘*Invisibili*’ (the ‘Invisibles’) – a campaign promoted by FLAI CGIL to support migrant workers
- local actions and strikes, such as protests organized by migrant workers in South Italy (Nardò, Puglia) in 2011 which contributed to the introduction of ‘gangmaster’ (‘*caporalato*’) as a criminal offence in the civil code (Legislative Decree 109/2012)

However, currently there is little or no specific role for RLST in all of this. Of course, there is some awareness that RLST could play a role, and that strengthening local agreements in ways that helped to establish RLST at the local level would be beneficial. However, there are substantial obstacles for resourcing such a development in practice, as one trade union official indicated:

Employers in very small business contexts try to save money, including on security issues, in a sector where they do not have a clear idea of seasonal work and earnings.

Trade union official

4.5 Discussion and conclusions

This chapter indicates that, although there are legislative provisions in Italy that create a system for the representation of workers’ interests on OSH in MSEs through the appointment of trade union



representatives, along with an infrastructure of support to which they can relate, examples of the successful operation of this system remain largely restricted to certain economic sectors and regions. Elsewhere, and especially in the south of Italy, there are still many problems of coverage and operation in economic contexts in which OSH in MSEs is not prioritised and where this is exacerbated by issues of structural and procedural fragmentation and fissure among these firms and the economic contexts in which they are situated.

Nevertheless, the positive examples of good practices in the crafts and construction sectors in some regions (especially in the north of Italy) outlined in the previous section show that, given the presence of certain preconditions, these systems have the potential to make a substantial and unique contribution to supporting worker safety and health in MSEs through the ways in which the active involvement of RLST can play an important role as a '*reference point*' for workers and their employers and in supporting them to comply with legal standards and find better solutions to OSH issues. In this respect, they provide '*external support*' for the employer, often in small companies where the culture and capacities for OSH prevention are poor. Our findings show that, while RLST have some opportunities for voice on information and consultation practices, there are few spaces for bargaining in MSEs because small companies lack a culture of negotiation, social dialogue and industrial relations. Formal bargaining activities are therefore especially oriented towards the territorial level and the achievement of agreements and protocols with employers' associations and institutions. The RLST are actors involved in a territorial system of prevention that determines their concrete opportunities for action. For this reason, one of the most important challenges is to strengthen the role of the RLST within participatory prevention systems, building trilateral formal networks in a scenario characterized by extremely fragmented relations.

In Italy, arrangements for OSH in MSEs are often set up by an external consultant, and RLST, therefore, may have to build a relationship with this figure and, at the same time, with the employer, as well as keeping in touch with workers through meetings and informal contacts. Our findings show that they regard building the trust of all these players as important, and suggest that, from preference, many RLST try to avoid conflictual approaches, as well as further frightening workers who may already be afraid of losing their jobs. RLST, therefore, try to build relations with the company through a cooperative attitude based on several drivers, including: ethical (the importance of prevention and of workers' health); economic (the profitability of good safety and health arrangements); and legal compliance (the fines and criminal consequences arising from accidents) arguments. Thus, they are actors within the territorial prevention system. Generally, as reported in the INSULA study, there is better cooperation between the bilateral bodies, RLST and trade unions, and a different engagement of the local health services, while there is a lack of collaboration especially with other institutions, such as the local agency of INAIL and the inspection services. In particular, the role of the bilateral bodies is fundamental to orient and support RLST through training, research and study, information campaigns, monitoring and planning. The most effective experiences based on cooperation are those promoted by the most structured bilateral bodies. And in these cases, there appear to be several determinants of such effectiveness. These include: an adequate number of RLST (which is also dependent on a high presence of affiliate companies and a significant level of economic investment); the development of locally planned interventions (involving strategies shared by the social partners and institutions); projects promoted by the unions focused on specific issues; the continuous presence of the RLST in the territory (as well as the establishment of local offices, and the involvement of RLST in training courses for workers); and the provision of both appropriate tools (including IT) and training to support RLST. However, the bilateral bodies operate in very different ways in different regions, and common strategies are underdeveloped at the national level.

Our findings largely confirm those of the second INSULA study, in as much as they have demonstrated the expected range of challenges facing external intervention in preventive OSH in MSEs and a wide range of structural and procedural differences in the ways that RLST and their support structures in different sectors and regions were organised to respond to these challenges. At the same time, as we outline above, the findings suggest a degree of commonality in the examples of what works in terms of RLST interventions and what is needed to support their effectiveness. In particular, they stress the importance of co-operative approaches from the social partners, public authorities, OSH practitioners and small firm organisations in supporting the role of these TUPAs. They further demonstrate the importance of competence and training to support the considerable skills needed by RLST in order to win the trust and co-operation of workers and owner-managers in MSEs. This said, the findings also show that RLST are able to turn to more conflict-based strategies aimed at mobilising collective actions to support the protection of workers' OSH and welfare when they are faced with serious abuses by employers. Fundamentally, RLST are trade union *representatives* and



it appears from our interviews that they retain a consciousness of this role even when acting in a cooperative and advisory role with employers.

Our findings, therefore, suggest that, in the best cases, RLST are resourceful in their strategies, whether they are co-operative and partnership orientated, or employing current approaches to union organising and industrial action in the face of hostile and exploitive employment and business practices.

There were also some differences between our findings and those of the INSULA study. These were partly related to the difference in the methodologies, particularly the wide-ranging quantitative survey used by IMPACT and our own smaller-scale qualitative field research focused on TUPAs. In the main, RLST in the present study enjoyed better experiences of institutional support, and greater integration in the preventive system, than seems to have been the case for the majority of those involved in the INSULA survey. This of course may have been an artefact of selection, where differences of focus between the studies meant a greater proportion of best case examples were present in our study than was the pattern in the larger and more general population of RLST included in the INSULA survey. It may also have been because our qualitative and open-ended interview methods allowed representatives opportunities for more detailed reflection on their experiences than was possible in a questionnaire-based survey. Nevertheless, the present study provides confirmatory evidence on the effectiveness of co-operative intervention strategies by RLST and the institutional support for them provided by the bipartite and tripartite structures of which they are part. It further suggests that, where such bipartite and tripartite support can be extended to sector wide initiatives and developed at regional and national levels, RLST have strong potential to make significant contributions to the co-ordinated actions that wider research findings on OSH in MSEs indicate are among the most effective preventive strategies in relation to these enterprises (EU-OSHA, 2018a). At the same time, while there is the suggestion of such potential in some of our cases, in combination with the wider findings of the INSULA study, the overall picture indicates there is still a long way to go before the majority of RLST share such positive experiences.³⁰ Indeed, it would be remiss not to reiterate that our positive cases were drawn mainly from two sectors – construction and crafts – and from northern Italian regions – both of which have been widely acknowledged for some time to lend themselves to the approaches on which we have focused (Walters, 2002). As the example from agriculture illustrates, other sectors and regions have a considerably greater journey to undertake before they reach the level of infrastructural support that underpins many of the successes in these sectors.

Greater support and co-ordination of the activities of RLST is required, along with better understandings of the significance of their role and its better integration into wider preventive strategies. At the same time, the heterogeneity of small firms and their different market positions needs to be acknowledged, as does the implication this holds for the development of a multiplicity of prevention strategies that reflect the implications of such heterogeneity. It is clear from our study that, while the bilateral system offers support for the MSEs that are part of it, there are many other enterprises that lie beyond its reach. It is quite often among these firms that poor OSH conditions are experienced. These are the result of such firms being locked into low tier dependent positions with little decision latitude in supply chains in which the price and delivery demands of more powerful organisations oblige them to pursue low road strategies towards their business survival. In this respect it is significant that both our study and the previous INSULA survey found that RLST consistently reported enjoying collaborative relationships with trade unions and workers. As we have illustrated in the example in the craft sector in Prato, such relations allow for the development of more conflict-based mobilisation strategies for industrial action that can be used to draw attention to these poor conditions so they are addressed by the appropriate authorities. Here again, if we recall the findings of wider research on OSH in MSEs outlined in Chapter 3, in terms of the likelihood of compliance with OSH standards, the owner-managers of firms in which such poor OSH conditions are experienced are often characterised as reactors or avoiders, among which voluntary compliance is unlikely. The wider research acknowledges that more forceful compliance strategies are necessary in these situations and it is here that the trade union organising role of RLST is both relevant and important.

Equally important in such scenarios is the further recognition that, in such fragmented and complex market positions and at the ends of supply chains in which managerial decisions are determined by external market

³⁰ The extension of the roles of RLST and bilateral bodies in all sectors and regions is a basic goal identified by the recent joint strategy on health and safety promoted by the trade unions CGIL, CISL, UIL (CGIL, CISL, UIL, *Un'azione di prevenzione efficace, partecipata e diffusa. Obiettivi e priorità di un percorso per la salute e la sicurezza nei luoghi di lavoro*, Marghera, 19 Gennaio 2018).



relations over which firms have little influence, micro enterprises are unlikely to respond to conventional trade union actions, dependent as they are on features of labour relations within firms. Instead, the attention of unions needs to focus on the more significant influences upon such firms, which often originate further up the supply relations in which they are embedded. There is some evidence that this is already occurring in some sectors (as indicated by the information presented earlier on collective agreements in agriculture, for example), but its development remains limited and patchy. The significance of RLST as external change agents is important in this respect too, because as illustrated in the Prato case, being located outside the firm but with access to its workers, they can act both in relation to the workers within the firm and in relation to the forces acting upon the firm from the supply relations in which it is situated. Also significant in this case was the acknowledgement by the RLST of the need for the adoption of different organising and mobilisation strategies to those conventionally deployed by trade union actors in industrial disputes.

There is no doubt that these situations are difficult and challenging ones for trade unions and likely to be unresponsive to conventional approaches to the representation of workers' interests, but a further significant finding of the Italian research was the extent to which this is already acknowledged by many of the trade union actors who participated in the study.





5 Spain: Varying agreements on TUPA programs

5.1 Introduction – the TUPAs methodology and structure of the chapter

Since around 2000, Spain has had Trade Union Preventive Agents (TUPAs) programs for visiting micro and small firms (MSEs) in several regions, based on voluntary agreements. The first two such programs were described and analysed by Walters (2002), along with similar systems in Italy, Sweden and the UK. This chapter is based on a new field study of the 2017 TUPAs programs, and provides an update on them and their backgrounds. The chapter also describes how cooperation between the social partners and, for the most part, regional authorities, is a crucial determinant of the kind of help TUPAs can give to MSEs and their workers to improve OSH management. The voluntary basis of these agreements also makes TUPAs dependent on temporary regional/sectoral decisions about cooperation and funding.

The TUPAs programs described in this chapter are not a statistically representative or randomly selected sample – something that would, in any case, be very difficult to achieve as there is no central register of the programs, which also vary substantially by region. Based on a survey on existing programs to the heads of the OSH departments of regional CC.OO. units, seven programs in four of the seventeen regions were studied by the researchers at ISTAS.³¹ These programs were strategically selected to combine regional and sectoral variety, and also to include programs assessed to have clearly improved OSH in MSEs.

For each case study, four main sources of information were used:

- 1) Bibliography on special characteristics of the region;
- 2) Documents detailing public policies and collective or social partner agreements, as well as reports from, and other information on, funded TUPAs programs;
- 3) In-depth interviews with selected key informants, including: 5 territorial TUPAs, 4 sectoral (building and forestry) TUPAs, 8 trade unionists, including 7 from CC.OO. and 1 from UGT, 3 representatives of employers, 4 representatives of local labour authorities (Asturias and Castilla-La Mancha) and a senior representative of the labour inspectorate in Asturias. A common set of interview questions was prepared by the Spanish research team. The interviewees were recorded, with their permission.
- 4) In some of the case studies, it was also possible to accompany a TUPA on a workplace visit.

Before we go into the detail of case studies, we first give a brief outline of their contexts, including in relation to the labour market, economic and employment structure, industrial relations, OSH regulations and OSH actors. The rest of the chapter is therefore structured as follows:

- 5.2 The background: the economy, labour market and industrial relations
- 5.3 The OSH system, safety representation and initiatives to reduce risks in MSEs
- 5.4 Differing TUPAs schemes through regional and sectoral cooperation
- 5.5 Case VI: OSH sector delegates for construction sites in Asturias
- 5.6 Case VII: Visits to regional government ordered forestry work in Castilla y León
- 5.7 Conclusions: Major differences in TUPAs' prerequisites and outcomes

5.2 The background: the economy, labour market and industrial relations

5.2.1 A precarious economy for both workers and MSEs

Spain was hit by the financial crisis of 2008-2009, when the booming construction sector and housing market collapsed. GDP per capita shrank from €30,000 in 2007 to €24,000 in 2016. Unemployment peaked at 26% in 2013. At the time of writing, it was 19%, but 40-50% of the working population shift between periods of unemployment and temporary jobs (Spanish Government, Spain Today, 2015). This is mainly the case for the young and for the many unskilled workers. The number of MSEs more than halved between 2006 and 2016. Yet the remaining 1.4 million make up 96% of all firms and employ half of the approximately 15 million workers. With a high turnover of firms and staff, MSEs are particularly common in

³¹ ISTAS is a part of the CC.OO. union federation, but the other large federation, UGT, has similar TUPAs practices and experiences.



sectors such as farming, tourism and construction, but are relatively less common in high-skilled and innovative industries, such as IT.

5.2.2 A weak welfare system and regional governance with social dialogue

Spain has often been included in a fourth type of welfare system (compared to the three described by Esping-Andersen, 1990), the *Mediterranean model* (Sapir, 2005). This is characterised, among other things, by fragmentation of benefits and programs, low social expenditure with low benefit levels in social security, and low levels of redistribution, which are compensated for by strong ties between family members and the importance of other welfare providers, such as, for example, the church (Esping-Andersen et al., 2002).

Spanish governance is substantially delegated to the seventeen regional authorities (formally: 'autonomous communities'). Both the national government and the regional authorities have the power to legislate over social services and benefits and oversee their distribution. And both national and regional authorities have channels for dialogue with the social partners which, as noted above, can be the basis for agreements on sectoral or regional TUPAs programs.

5.2.3 Collective agreements, unions and worker representation

The Spanish *erga omnes* system of collective agreements means that trade unions and employers' organisations (with the required representation) can bargain and regulate conditions, including for non-organized firms and workers affected by the agreement. The bargaining system is complicated, as agreements are reached at national, regional, sectoral and firm levels (Rios Salmerón and Ferrando García, 2002). Since 2011, industrial relations reforms intended to increase economic and labour market flexibility, have encouraged the fragmentation of labour relations (Banyuls and Recio, 2015). The number of company agreements signed each year has tripled, and most are in MSEs without elected workers' representatives (CC.OO., 2015).

The fact that collective agreements also cover non-members may be a reason for the low level of trade union membership. After many members were lost through the economic crisis and its associated soaring unemployment, only about 2.6 million workers (or 16% of those employed) are now organised in unions, mainly in the large CC.OO. and UGT federations (Vidal et al., 2016). However, organisation rates increase with company size. In 2010, the range was from 7% membership in micro firms to 30% in large employers (ECVT, 2010). Despite this, the unions often have a presence in firms, as they can initiate the election of workers' representatives in enterprises where there are six or more workers (RDL 2/2015, art. 62).³² Most are general representatives elected by and for all workers, but in very large companies, union members may also elect trade union delegates. In 2015, there were some 260,000 general worker representatives, most in medium or large employers, but 78,000 were representatives in firms with 6-49 employees (CC.OO., 2016).

5.3 The OSH system, safety representation and initiatives to reduce risks in MSEs

5.3.1 The occupational health and safety system of regulations and actors

The occupational health and safety system was modernised during the 1990s, based on the EU's OSH directives. Law 31/1995 on the prevention of work-related risks transposed the Framework Directive (89/391/EEC). It requires employers to assess and manage all possible safety and health risks at work. Compliance with this and other OSH regulations is monitored and enforced by a national labour inspectorate, whose work is organized and planned jointly by the Ministry of Labour and the regional labour authorities, in dialogue with the social partners. There are also regional OSH agents, which the regional authorities can appoint as collaborators to the labour inspectorate. The latter supervises compliance with both OSH regulations and labour and employment law (Boronat and Gonzáles, 2015). Illegal employment is common and is a major focus in inspections. There are some 970 labour inspectors for 1.5 million workplaces, and 50 of these inspectors specialise in OSH regulation and supervision. Of the 300,000 labour inspection

³² RDL 2/2015 Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los trabajadores.



workplace supervisions in 2015, some 70,000 monitored OSH regulations, i.e. an inspection rate of once in 20-25 years. During these inspections approximately 15,500 OSH infractions were recorded, sanctions totalling about €40M were suggested, and 105,000 OSH subpoenas were issued by the inspectors (Labour Inspectorate Annual Report, 2016).

Workers and their elected safety representatives have a right to participate in their employer's OSH management arrangements (see below). Spanish regulations also give an important role to (OSH) prevention services – with defined competences – which assist employers to assess risks and fulfil their preventive responsibilities. Only companies with more than 500 workers (or 250 in certain activities) are legally obliged to set up an internal preventive service. Smaller companies can hire private multidisciplinary occupational health services.

These actors are supported by several OSH related agencies, including:

1. Around 20 occupational injury and disease compensation agencies. These 'Mutuas' are private and employer related agencies within the social security system. As an employer's insurance costs vary with the sector's assigned risk category, the Mutuas effectively reward under-reporting. Trade unions and others criticize the under-recognition of occupational accidents and, in particular, diseases (see, for example, the estimate by Takala et al. (2014) of 14,188 fatal work-related diseases versus 546 fatal occupational accidents per year in Spain).
2. The National Foundation for the Prevention of Occupational Hazards is an OSH prevention fund regulated by the Prevention Act to collect part of the Mutuas' yearly surplus and to use it to promote prevention, especially in MSEs, in the form of funding to the social partners to develop prevention projects.
3. The National Institute for Safety, Health and Well-Being at Work (INSST),³³ which is active in research, information/training, institutional representation and international collaboration. Similar institutes operate in most of the regions.
4. A national observatory of working conditions uses official occupational accident data to report on sectors that should be prioritized for further public support. However, it relies on official OSH statistics and there is little other Spanish data on the actual extent of various OSH hazards and related injuries and diseases (cf. Takala et al. (2014) above).
5. National and regional tri-partite OSH commissions with representatives of the government, employers and unions. These discuss and propose policies and programs. Those at the regional level are the main forums for discussing and guiding TUPAs.
6. Prevention 10, which was set up by INSHT (now INSST) to assist MSE employers who take on the OSH functions provided by preventive services (when this is possible): MSE employers may do so in firms with up to 25 workers (formerly 10 workers).

5.3.2 Safety representatives are specialised general worker representatives

Workers' safety representatives exist only where general workers' representatives have been elected. The latter elect some of their number to specialise in OSH issues, and in this role, they are entitled to enhanced rights, duties and functions. In firms with 1-5 workers, OSH consultation is carried out as direct dialogue with the manager, but where there are 6-49 workers, 1 safety representative can be elected. In firms with 50 workers there can be 2 safety representatives, where there are 101 workers there can be 3 safety representatives, where there are 501 workers, 4 safety representatives, and so on up to 9 safety representatives in very large workplaces of 5001 or more workers. In all, 43% of workers lack safety representation (Eurofound, 2013).

Formally, safety representatives have significant rights. As they are also general worker representatives, they have the right (according to the Workers Statute), among other things, to:

- receive information on the most relevant aspects of the company's activity (employment, financial balance sheets, economic trends of the sector and the company, recruitment policies, absenteeism, occupational injuries and diseases, prevention policy and activities, and equal opportunities)

³³ Known as the Instituto Nacional de Seguridad e Higiene en el Trabajo (INSHT) until July 2017, then the Instituto Nacional de Salud, Seguridad y Bienestar en el Trabajo (INSSBT), before the current name was adopted in July 2018.



- participate, be consulted and express their opinions in influential periods of the company's activity
- have oversight of compliance with labour regulation
- inform workers on issues of concern and convene meetings
- time-off (during working hours) to perform union representation duties

As safety representatives, they have additional rights to:

- receive OSH training during working hours or have such training regarded as working time
- accompany OSH professionals on their visits to the company during working hours (this includes labour inspectors)
- participate in the investigation of occupational injuries (during working hours)
- suspend work when there is clear and present danger to workers' lives or safety

With the huge fall in employment since 2009, the number and relative rate of safety representatives are much reduced, especially in micro and small enterprises. A calculation made on the basis of the 2011 workplace election results indicated that there are about 187,000 OSH representatives, 80% of whom are linked to the two major union organisations (CC.OO. and UGT). This equates to a rate of one safety representative per 75-90 workers. Four years later, the total number of regular representatives elected in companies fallen, compared to the results for 2011, with a loss of 48,000 delegates (15.6%). More than half of those (25,772) were lost in companies with 6-49 workers, which amounts to a loss of 25% in this size-band, as a result of redundancies within, and the disappearance and downsizing of, small companies (CC.OO., 2016).

5.3.3 OSH policies with a focus on MSEs' poor OSH management

Occupational injury statistics kept rising even after the 1995 OSH Act. Trade unions and others pointed to the weak implementation of the reforms. Most MSEs were not capable of the mandatory OSH management requirements. Instead, they hired prevention services that provided merely bureaucratic formalities – such as standardized risk assessments – to 'prove' compliance with the regulations, but with minimal preventive use for the individual firm. As the labour inspectorate also focused heavily on formal documents, unions demanded better OSH oversight - specifically mechanisms for the control of subcontracting chains and job insecurity, notably in construction.

The tripartite National OSH Strategies for 2007-2012 and 2015-2020 recognized the poor compliance in many MSEs. This has led to reforms to support OSH in MSEs, including, for example:

- Limitation of subcontracting chains in the construction industry
- Improvement of employers' OSH coordination in subcontracting chains. Their OSH representatives may also help workers from MSEs in the subcontracting chain
- Constructions firms, and any other company engaged in risky operations, must have a person in charge of OSH at the workplace during the work
- The quality of the prevention services is to be improved through mechanisms for oversight by the regional authorities
- Public administrations are to develop MSE supports (advice, information, training and technical assistance)

Since 2009, the economic crisis has partly shifted public policy away from OSH risks in MSEs, and towards helping them to survive. This includes:

- Reducing bureaucratic formalities for companies with up to 50 workers and without special occupational hazards, by simplifying their documentary obligations; employers in companies with fewer than 25 workers (who are present at the workplace and have the required knowledge) may take charge of occupational health and safety activities, minimising the need for external OSH services
- Occupational health and safety policies have to take into account the specific needs and difficulties of small and medium-sized companies



- Economic incentives to promote the 'involvement' of employers in OSH, including: a reduction of social security OSH contributions for those companies that reduce injury reports or meet other requirements

Nevertheless, there remains a recognition of MSEs' high OSH risks, as is expressed, for example, in the tripartite national OSH strategies. Similar tripartite dialogues, agreements and strategies exist at the regional and sectoral levels, again with a focus on MSEs.

5.4 Differing TUPAs schemes through regional and sectoral cooperation

5.4.1 Development and formal basis

From the start of the national tripartite negotiations for the transposition of the Framework Directive (in 1995), trade unions demanded that regional/territorial safety representatives should be included in the new OSH Act. These were mentioned in a document drafted around 1993, but subsequently slipped off the regulatory agenda. In March 2017, a joint CC.OO. and UGT proposal for a new national agreement (again) included demands for regional/territorial OSH representatives to monitor OSH in companies with fewer than 6 workers, with the same rights and protections afforded to other safety representatives in the OSH Act.

With no regulation, trade unions have instead made other attempts to address the lack of OSH management and of workers' participation in OSH in MSEs, especially where there are no workplace representatives. Over the last twenty years, there have been several union-initiated voluntary programs for visiting MSEs to promote OSH and workers' participation (Narocki et al., 2011). These visit programs are based on regional and/or sectoral agreements with employers' organisations, and mostly also include regional authorities and their OSH institutions. Funding for visit programs is not only given to the two main unions, CC.OO. and UGT, but in several cases is also provided for OSH advisors appointed by the employers. In some programs, MSE visits are carried out by joint teams, either of union and employer OSH advisors, or in addition with an expert from the regional OSH institute.

The agreements on sectoral programs are mostly funded by the previously mentioned National Foundation for the Prevention of Occupational Hazards, while those at regional level are funded by the regional authorities' budgets. In addition, some TUPAs are funded by employers' fees. The type and amount of funding, as well as the scope, objectives, required OSH training, check-lists, report forms and follow-up tools, therefore, vary in each TUPAs agreement by region and sector. Yet, as TUPAs have no national legal basis, they all depend on periodic regional/sectoral decisions to set up or to maintain the visit programs.

5.4.2 TUPAs programs in about half of the regions and for around half of the workforce

The survey to regional trade union OSH bodies (within CC.OO.) referred to above, found widespread TUPAs visit programs. Eleven of the seventeen regions have or have had programs:

- 6 regions (Asturias, Castilla y León, Madrid, Castilla-La Mancha, Murcia and Andalusia) have TUPAs agreements.
- 2 regions (Galicia, Navarra) had TUPAs programs, but these have been discontinued.
- 3 regions (the Basque country, Andalusia, the Canary Islands) have visit programs within specific sectors.

Taking into account the regions' varying populations, over 45% of Spain's MSE workforce is presently covered by regional TUPAs agreements. An additional 7% had similar visit programs in the recent past. The agreements on TUPAs visit programs – which, as noted above, are mostly union based, and so sometimes joint agreements – focus mainly on construction, agriculture manufacturing, forestry, hospitality and retail/wholesale. These sectors employ some 30% of all employees and are dominated by MSEs. The TUPAs' experiences in these five sectors vary.

- Since 2001, tripartite visits have been carried out in construction, through a joint sector OSH body (OPPC). The costs are covered by small contributions from employers, through the Framework Collective Agreement for the Construction Sector. Regional developments further improve the



provisions of this agreement, for instance in Andalusia, Asturias, the Basque Region and the Canary Islands.

- Experiences of TUPAs visits in the hospitality and retail sectors are recent, and probably unsatisfactory, considering that the trade union federations in charge of these sectors have chosen not to submit visit programs in the next call for funding from the OSH foundation.
- TUPAs' experiences in industry and in agriculture vary substantially between regions.

5.4.3 Summary of five TUPAs programs

TUPAs programs in Asturias, Castilla y León, Madrid and Castilla-La Mancha were selected for this study as they represent a variety of prerequisites for, and types of, program, as well as a range of ways in which the unions have assessed their outcomes. Seven TUPAs cases were studied. Two – OSH sector delegates for construction sites in Asturias and visits to the regional government forestry subcontractors in Castilla y León – are presented in more detail in sections 5.5 and 5.6 below. The other five are briefly outlined in the following subsections:

Case I. General OSH territorial delegates (for all non-construction MSEs) in Asturias

The territorial prevention delegates (DTPs) for non-construction MSEs in Asturias are quite similar to the TUPAs for the region's construction industry (see case VI below). They are appointed by each social partner, have a high level of OSH training, have similar rights as OSH representatives, operate with a checklist and report sheet, and copy their reports to their joint body.

The DTPs have regional government funding as a part of the tripartite agreements between the social partners and the regional government on broad development issues, including improved OSH at work (IAPRL, 2017). Unlike in construction (case VI, presented in section 5.5 below), the eight DTPs (four from the employers and two from each union) continue to visit MSEs in four joint pairs (i.e. from each social partner). Of Asturias approximately 70,000 MSEs, the DTP teams visited an average of 800-850 per year between 2013 and 2016 - depending mainly on their varying government funding. As a result of their longstanding, joint operation and regional government support, the pairs of DTPs rarely face difficulties in visiting MSEs and engaging them in an OSH dialogue. However, when such problems do occur, they are referred to the social partners' joint body, which occasionally refers them on to the labour inspectorate. Qualitative assessments of the DTPs' impact have been quite positive. And a comparison between DTPs' assessments of eleven aspects of the OSH management arrangements in the visited MSEs showed marked improvements in their preventive capacity between 2008 and 2016; for example, 'complete risk assessments' up from 41% to 56%. There is limited information on how representative the visited MSEs are, but this general improvement is still remarkable, given the often deep-rooted problems apparent in most MSEs' OSH management arrangements (EU-OSHA, 2018a) and given the DTPs relatively low visiting rate (of about once in 50-100 years).

Case II. Madrid CC.OO.'s program of MSE visits by basic OSH advisors

TUPAs in Madrid are funded by the Governing Plan for OSH development, agreed in the dialogue between the regional government and the social partners since 2002. The present plan, for 2017-2020, has broad objectives, including reducing occupational accidents and diseases, increasing OSH training and supporting OSH in MSEs. The plan covers two types of activities: those funded by the government via the regional OSH institute; and separate projects carried out by each of the social partners (following application to the OSH institute for funding).

CC.OO.-Madrid got €1.3M from the plan to fund all of its OSH projects during 2017-2020. One of the most recent CC.OO. projects consists of hiring 8 persons, chosen for their trade union background, as OSH advisors to MSEs. As part of the program, they receive 'basic' OSH training (50 hours) and have to fill in an agreed checklist at each visit. In 2016, these union OSH advisors monitored more than 3,100 of the 177,000 MSEs in the Madrid region, and a similar number of visits was planned for 2017.

However, these basic OSH advisors face resistance from MSE managers and have no formal position or rights to support them. They are sometimes met with hostility, and rarely allowed to enter the workplace to



observe OSH conditions, or speak with the workers, who are often afraid for their jobs if they talk with a union representative. Although the OSH advisors can generally fill out their checklists – and thus register a visit – this is normally based only on information given to them, with no independent verification. Overall, the OSH advisors estimate that they have little OSH impact. Yet they, and the union supporting them, still hope to raise awareness regarding the union's role in relation to OSH – including among MSE managers – and to organise some workers, and so in time help to improve their OSH conditions.

Case III. Madrid CC.OO.'s program for joint visits to construction sites

In another of CC.OO.-Madrid's TUPAs programs funded by the Governing Plan, since 2002 CC.OO.-construction has hired an OSH specialist to be part of a joint team of four visitors: one from each of the larger unions, one from the employers' association and one technician from the regional OSH institute. The team visits about 1,000 construction sites per year. They monitor not only safety but also chemicals and other long-term risks. Overall, this joint TUPAs program is considered to have had a clear impact. The combined authority of the team meets with no local resistance and their frequent improvement recommendations are nearly always implemented by the managers, as they can also activate a requirement for an urgent visit by a Labour Inspector. Disagreements within the team are rare, not least as possible risks are mostly photographed for verification.

Case IV. Castilla y León: Visits for advice to companies, workers and OSH representatives

The two TUPAs programs in Castilla y León are funded by the same tripartite OSH agreement – in the regional OSH council – through which the regional government funds MSE visits. The employers' organisation gets 48% of the funding for visiting OSH advisors and each of the unions gets 26%. This has allowed CC.OO. to hire 15 advisors with academic OSH training. Together these advisors visit at least 1,500 MSEs per year, out of the 67,000 in the region (with additional visits carried out by the UGT and employer OSH advisors).

These TUPAs visits have had mixed results. The regional government has not advertised the program and rarely uses the information from the TUPAs' reports, and the TUPAs lack formal rights, and so need to be quite diplomatic to engage MSEs' managers in a meaningful OSH dialogue. They also have limited options for action when they notice grave risks. Overall, they see little change in MSEs' negative view of OSH issues. However, they do manage to engage enough MSEs in a dialogue for the managers to sign the visit form (without which the visit does not count), and the unionists involved in the program still see it as an important service to MSEs, to their workers, and (sometimes) to local OSH representatives (Álvarez González, 2013).

Case V. Visit program in Castilla-La Mancha

This program was preceded by a temporary project in 2000 by the regional CC.OO.'s OSH department to visit and give OSH advice to 300 SMEs (i.e. including medium sized firms). The visits revealed widespread neglect of OSH duties, but managed to raise awareness and to get several local OSH representatives elected (Walters, 2002). The present program is based on tripartite OSH agreements made in the early 2000s. These included (varying) government funding for the social partners to hire highly trained OSH advisors, of which CC.OO. has 5 (UGT also has 5 and the employers have 6). The advisors' role is to support OSH in the approximately 60,000 MSEs in the region, with the three social partners' OSH advisors aiming to visit 800 MSEs per year (from a list of 1,500). Until 2017, CC.OO.'s TUPAs visited firms mainly following requests from local OSH representatives or managers, though firms were also selected on the basis that their managers were expected to be open to OSH dialogue. The TUPAs then helped workplaces with some interest in OSH to further improve. However, the visits rarely reached the great majority of micro firms with little competence or interest in OSH issues.

Since 2017, the regional authority has provided the social partners with a list of firms to visit in sectors with high accident risks. When CC.OO.'s OSH advisors first contacted firms on this list, they found resistance and distrust, as these were mainly MSEs with no local OSH representative or other union activity. The visiting agents were rarely allowed to access company facilities and the checklist was completed in an office with the manager, and with no verification by the union's OSH specialist. They also met with many refusals to accept any visit at all. However, the employers' OSH advisors met much less resistance from the MSEs and were more accepted as a source of useful advice. Despite these severe problems, CC.OO. still supports the



visit program, considering that this both raises awareness of OSH problems and the union's offer to help, as well as giving some opportunities for providing advice and responding to workers' concerns.

5.5 Case VI: OSH sector delegates for construction sites in Asturias

5.5.1 From joint to individual workplace visits on OSH and employment issues

The prevention delegates (Delegados Regionales de Prevención Sectoriales — DRPSs) of Asturias' construction sector are probably the oldest trade union prevention agents in Spain. They began their activity in 1999, as an evolution of the General Construction Agreement, which provides for an OPPC (Joint Construction Prevention Commission), known as the 'Commission'. The Commission consists of employer and union representatives, but it can also co-opt representatives of the labour inspectorate and other relevant regional government agencies, with competences both to obtain first-hand accident rates in the sector and to visit companies. The Commission also funds (from contributions made by all employers) and monitors the DRPSs and gives them rights equal to those of safety representatives provided for in the OSH Act. Two TUPAs are appointed each by CC.OO. and by UGT, and four OSH advisors are appointed by the employers' organisation. All have academic OSH training and were trained by the regional labour inspectorate in how to visit workplaces, to which they are to have free access, including to documentation and to workers, and where they have the right to make OSH recommendations.

Initially the visits were carried out by a team of two DRPSs, one from the employers' organization and one from the trade unions. The interviewed DRPSs preferred the joint visits, as the pair could, for example, support each other in difficult situations, had more time to talk with workers and could detect and interview irregular workers by entering from different sides of a site. The degree of agreement between the pair was high, and their few disagreements were solved by the Commission. However, in 2014 the social partners in the Commission opted for individual visits, in order to cover more construction sites. The sites are run by some 1,600 firms, which is half the number that existed before the crisis. In 2016, the four union (2 CC.OO. and 2 UGT) and four employer-appointed DRPSs together carried out 4,755 visits to 3,471 of the construction firms' sites (i.e. all sites except for very short jobs or those in private homes (to which TUPAs have no access) (FLC, 2017, pp.37-44)).

Unlike other TUPAs, the DRPSs monitor not only OSH but also employment issues. With the de-regulation of the sector, as a result of the economic crisis and the increase in irregular contracts, most of the TUPAs' actions are focused on controlling contracting and subcontracting. All irregularities are reported directly to the Commission, which informs the labour inspectorate. Many companies have recently been penalized for such practices. The visiting DRPSs also photograph the site's subcontracting book and send it to the social partners' joint labour commission, the FLC. The FLC can then require all companies to contribute the mandatory fee of €56 per worker per month, part of which funds the DRPSs.

5.5.2 Workplace interaction with managers and workers

The DRPSs can geo-locate all worksites that have been reported (which is a requirement on construction firms). In the same database, they can register new worksites that they spot and track previous actions in each worksite. Visits are made without prior notice, but the DRPSs always first introduce themselves to the responsible manager (if necessary by phone). They begin by going through the entire worksite, if possible with the manager or foreman. Risks or potential for improvement are identified and discussed on the fly. Normally, all suggestions are well received. In particular, the shortcomings recorded during previous visits are reviewed and any new problems are recorded on the visit sheet.

There is a constant and fruitful exchange in which the DRPSs play the role of a driving force, proposing simple and easy to implement solutions and improvements and pointing out the need to follow what is indicated in the prevention plan in the most complicated cases. The suitability of changing rooms, toilets and premises to consume and heat meals is checked. After this safety round, the documentation is reviewed, specifically the site's safety plan, the opening communication, the appointment of the mandatory safety coordinator, the incident logbook and the subcontracting book.



At the end of the visit, DRPSs fill in the 'on-site health and safety report', in which they record detected and corrected deficiencies and those outstanding. They leave a copy on site as evidence of the visit and to facilitate the correction of irregularities by all companies in the site's contracting chain. The report is saved as a computer file, to make it available to all DRPSs and to the Commission. When deficiencies are not remedied, the DRPSs communicate the situation to the Commission, which sends an 'official letter' to the non-complying company, warning that if the deficiencies are not remedied within a certain period of time, the information will be passed on to the labour inspectorate.

5.5.3 Noted problems and assessed effects

As mentioned above, DRPSs focus first on hiring (because without legal jobs there is no work safety), then on prevention, followed by facilities and welfare, and finally on documentation. However, their visits in 2016 still noted around two OSH deficiencies per visit in their report sheets. Among other things, the DRPSs find that safety plans are often 'cut and paste', instead of tailored to the reality of each project. They know which OSH prevention services do such plans well and which do not. And the DRPSs note that the mandatory safety coordinators rarely monitor OSH on the sites (as their log book is usually empty).

Nevertheless, the DRPSs find that the vast majority of recommendations on prevention, facilities and documentation are addressed, with greater or lesser swiftness, but almost always satisfactorily, with very few of them reaching the labour inspectorate. And all those involved in the DRPSs program unanimously affirm that the health and safety situation of the worksites in Asturias has changed enormously since the beginning of the agreement, and that the average standard of OSH compliance has improved.

5.6 Case VII: Visits to regional government ordered forestry work in Castilla y León

5.6.1 Union struggle secured support from both employers and the regional authority

The two TUPAs programs in Castilla y León are part of the same tripartite OSH agreement – in the regional OSH council – through which the regional government funds MSEs visits by advisors with academic OSH qualifications, alongside another program aimed at providing advice to workers and OSH representatives on OSH issues. Most of the TUPAs visits are to MSEs in general in the region (see case V, in section 5.4.3 above). However, 15% of these TUPAs' funding is set aside to support OSH in forestry work carried out by subcontractors to the regional government (i.e. excluding both private and nationally owned and managed forests). This equates to four full-time TUPAs, two each from CC.OO. and UGT. The high-risk forestry work in Castilla y León employs around 1,700 workers in the region, with barely any union membership or worker representation. Trade union activity is difficult as workers are scattered in some 100 moving work crews in the forests and only have seasonal contracts. They are usually farmers, students on summer leave or migrant workers.

CC.OO. tried to start visit to these sites in 2003, as part of their general program, but it was impossible to locate the work crews as they lacked information about their exact locations in the forests. Furthermore, they had no authority to support their actions. As a result of union struggle, visits are now an explicit part of the tripartite OSH agreement and have the financial support to allow each of the two unions to hire two technicians. They also have an additional source of legitimacy, as the need for the visits is recognized in the sector's collective agreement, which assigns visits by the unions' OSH professionals to 'promote and monitor OSH in the sector'. Pressure by the union also ensured that the Regional Directorate on the Natural Environment reinforced the means to assume its OSH duties. It has now contracted a company to coordinate work safety and has an occupational preventive services for all its forestry works.

5.6.2 Union TUPAs have achieved radical improvements

Through its joint support from a collective agreement, the visiting program has achieved legitimacy, expanded its goals, and covers all workplaces, each of which is visited once a year. The interviewed TUPAs are now well known and openly received by crew leaders and by workers. They refer to themselves as CC.OO. trade union experts and find that workers appreciate their role and advice. The TUPAs receive information on the location of all works, and the contracted MSEs cooperate with them. This even extends to work crew leaders picking the visiting OSH advisors up on the closest road to bring them to the worksite in the forest.



At the site, the TUPAs first talk to the crew leader about the OSH conditions, and then check the worksite, looking at how work is carried out, the machinery, vehicles and equipment, work clothes and protective gear. Information is verified by talking to the workers, for example by asking if they have received proper training. The TUPAs then give recommendations on what the crew leader should improve, including advice on polluting wastes and other environmental aspects. If they find a problem that cannot be solved locally, they call the Directorate. For example, once a helicopter model which was not safe for transporting workers was taken out of use. The OSH advisors use report sheets and checklists that all parties have agreed upon. Completed forms are forwarded to the Directorate, which can use them to supervise contractors. However, this rarely happens as TUPAs directly call in deficiencies that require the Directorate to intervene.

The interviewed TUPAs observed a radical OSH improvement over time: from totally deficient (for example, workers wearing sneakers when operating chain saws) to a more regulated situation. In addition, the Directorate send improvement requests to the contracted companies, and verify their compliance with OSH requirements through safety coordination measures – one of which is the visits to work crews by the TUPAs. The former regional OSH leader of CC.OO.-Castilla y León also suggested that the program has had a significant impact on working conditions, indicating that it has achieved union oversight in companies without union presence and is the best example of a TUPAs programs known to him. In addition, the signatories of the last tripartite agreement noted that there is a need to continue with this program as accident figures in the forestry sector have dropped from over 150 per 1000 workers in 2007 to (a still very high) 80-90 per 1000 in 2014 (Junta de Castilla y León, 2016).

5.7 Conclusions: Major differences in TUPAs' prerequisites and outcomes

Spanish TUPAs lack formal rights in the OSH Act. Their MSE visits are instead based on rights, funding, legitimacy and support provided mainly by regional and sectoral agreements with employers and authorities. As a result, the programs in the seven studied cases differ in how they are organised and implemented, in their TUPAs' OSH competence (from 50 hours training to academic exams), in their interactions with managers and workers in MSEs, and in how their unions' OSH experts assess the outcomes of the programs. The cases and their varying practices demonstrate the importance of Trade Union Preventive Agents visiting MSEs with some power – authority, competence, legitimacy and support – to get access to the firm and its worksites, workers and OSH documentation, and then to engage them in an OSH dialogue which makes the owner-manager act on the TUPAs' OSH-advice.

Two programs where the TUPAs were provided with extra authority were assessed by their unions to be effective, i.e. as Trade Unions Preventive Agents who could, independently, promote better OSH and OSH management in MSEs. In the Asturias construction sector (case VI), the TUPAs are funded and are given the (extensive) rights of local OSH representatives by a bipartite agreement between the unions and the employers' organisation. This is upheld by the social partners in the joint prevention commission, which tries to resolve any differences between the TUPAs and the MSEs and can report serious and non-corrected risks to the labour inspectorate. Even after 2014, when the unions' TUPAs began visiting MSEs alone, they retained this authority and backing, which still gives them full access to construction sites, with firms and site managers mostly implementing their OSH advice.

In the forestry sector in Castilla y León (case VII), the unions' general OSH agreement with the employers and the regional government has, since 2003, included TUPAs visits to the government's procured forestry work. At the start, the TUPAs had neither support from the regional government's natural resources directorate, nor any collective agreement with the forestry employers. As a result, their visits were both difficult and deemed to have a limited OSH impact. This changed after further union struggle resulted in the inclusion of a special sub-programme for visiting worksites in the forestry sector, as part of the general visit programme agreement. A collective agreement included a mention of the TUPAs programme, following which the regional government assumed its OSH responsibility for its procured forestry work, thus opening a direct line of communication to receiving TUPAs' improvement demands. This combined authority and support have achieved good cooperation for efficient TUPAs visits to the moving, temporary work crews, as well as effective implementation of their OSH advice. All those involved consider that the TUPAs program has substantially improved OSH in government procured forestry work in Castilla y León.



The authority and legitimacy for TUPAs to access MSEs and for their OSH advice to be listened to is integrated into the organisation of the two joint programs. The unions' general territorial delegates in Asturias (case I) visit MSEs together with the employers' OSH advisors. In the Madrid region's Governing Plan's construction program (case III), visits are carried out a team of representatives of the unions, the employers and the regional OSH institute, based on collective agreements with the support of the employers' organisation, as well as good access to the labour inspectorate if MSEs do not improve enough. Both programs are assessed by the unions' OSH experts as helping MSEs improve OSH, and the trade unions have been active in achieving and continuing these support programs. However, there is also no principal difference between union TUPAs making visits alone or together with others. As is the case for all local safety representatives, TUPAs have to operate in relation to employers/managers and to labour authorities. Nevertheless, it is difficult to assess what OSH impact these TUPAs would have had without the extra authority of the employer representative in Asturias, plus a government representative in Madrid.

The three programs assessed to have more limited results in achieving an OSH dialogue with MSEs also indicate that TUPAs need more leverage than just funding and a bi- or tripartite agreement. The union's OSH specialists in Castilla y Leon (case IV) have had mixed results with their general visit program (but are effective in their forestry visits, case V). They get limited support from the authorities, need to be quite diplomatic to engage MSEs in an OSH dialogue and the authorities rarely use their visit reports. The TUPAs also have few options for action when they notice grave risks and they have seen little change in MSE managers' generally negative view of OSH issues. However, these TUPAs still succeed in engaging many MSE managers in a first OSH dialogue. And the union see the TUPAs visits as an important service to MSEs and to their workers and (occasionally) their OSH representatives.

The visits of the also highly trained TUPAs in Castilla-La Mancha were, until 2016, assessed as promoting better OSH. Visits were mainly 'on demand', either from local OSH representatives (i.e. from firms where such representatives had been elected) or to firms believed to be open to an OSH dialogue. TUPAs helped to improve this positive selection of firms. However, from 2016 onwards, TUPAs funding has been provided for visits to lists of MSEs in sectors with high accident risks. Since then, the union's TUPAs have faced problems of refused access to workplaces, to documentation and to workers in these MSEs, which has substantially reduced their OSH impact. However, when the employer OSH advisors (in the same program) visit a similar selection of high risk MSEs, their OSH advice is listened to, as the MSE managers see them as 'friends'.

The TUPAs in Madrid CC.OO.'s program of MSE visits by OSH advisors (case II) had only 50 hours basic OSH training and little support or legitimacy from the regional government or the employers' organisations, beyond the regional government resourcing the programme and the employers' organisations being represented on the body that approves them. Very many MSEs refused their visits or only accepted a talk, without any obligation to show the premises or the paperwork. The TUPAs could rarely assess OSH conditions – and had limited competence for this – or talk with workers about risks and how to prevent them.

The TUPAs in all three programs (cases II, IV and V) succeeded in meeting their required visit quotas. However, the visit reports were more based on managers' answers during the visits, than on the TUPAs' monitoring of worksites or talks with their workers. And the interviewed TUPAs found that they had a limited effect on OSH management arrangements or risks in the MSEs they visited. Nevertheless, the unions behind the three programs take a longer view. They still see them as important ways to promote contacts with MSEs and their workers' OSH issues to give them a voice in the social dialogue and thereby to gradually create better prerequisites for more effective TUPAs visits and advice.





6 Sweden: Comprehensive but contested system of regional safety representatives

6.1 Introduction – main points, methods and overview of the chapter

Since 1974, Swedish trade unions have been able to appoint regional safety representatives (RSRs) for all workplaces with a union member but without a joint safety committee – in practice micro and small enterprises (MSEs). RSRs are thereby the oldest system of Trade Union Preventive Agents (TUPAs) to support MSE managers and workers in their work environment activities. RSRs are also the only TUPAs system to cover (nearly) all of the labour market (see below).

RSRs have been described before (Frick, 1979, 1996, 2009; Frick and Walters, 1998). This chapter presents a ten-year update on how employment changes and lower unionisation have eroded RSRs' support to vulnerable workers, and how these changes are linked to the employers' critique of and proposal to abolish union RSRs. Secondly, the chapter describes how RSRs operate in practice, providing evidence indicating that they resolve many health and safety risks and promote their more preventive management within in MSEs.

The findings presented in the chapter have been gathered through a combination of literature review and interviews with key persons, as well as examination of the extensive yearly reports on RSR activities (from 2009 on). Those interviewed included nine representatives of the trade unions and four of employers' organisations, and the discussions with these interviewees covered the work environment system in general and the role and impact of RSRs in particular. In addition, the researcher was able to accompany a RSR operating in the construction sector on a number of workplace visits.

Before we go into the details of how the system of regional safety representatives operates, we give a very brief outline of the backdrop to their activities, including in relation to the labour market, economic and employment structure, industrial relations, and regulations of and actors within the work environment. The rest of the chapter is therefore structured as follows:

- 6.2 Changes in the economy, labour market and industrial relations
- 6.3 The work environment system of cooperation, voluntarism and safety representatives
- 6.4 RSRs as the main support to MSEs with high risks and poor prevention
- 6.5 RSRs' challenges, employers' critique, and ineffective conflict resolution

6.2 Changes in the economy, labour market and industrial relations

6.2.1 A labour market in an open, deregulated and fairly healthy service economy

Sweden and its 10 million inhabitants have an open economy, of which some half is made up of export and import. The GDP per capita was 45,500 USD in 2017. Despite generally good economic growth since 1995, unemployment is 6.8% - a level mainly due to the 20.2% rate among those born abroad (which accounts for 17% of the population (Migrationsinfo, 2016)). The employment rate is 68%, or 5.035 million: 4.561 million are employed (3.819 million in permanent jobs) and 474,000 are mainly self-employed (figures for those aged 15-74 years, as of November 2017 (AF, 2017)).

The economy has been much affected by the digital revolution, liberalisation and globalisation. These changes have been especially marked since the domestic economic crisis (1991-94) and the EU's enlargement in 2004.³⁴ Since the 1990s, labour market and other political deregulation, together with extensive privatisation of welfare services, have been added to these economic changes. Following the dominance of manufacturing in the post war decades, private services have become the largest and growing sector of the economy. In 2016, 2% were employed in the primary sector and mining, 20% in manufacturing and utilities, 10% in construction, 8% in transport and trade, 29% in private services, and 32% in the public sector (mainly in local authorities/councils) (AKU, 2016).

³⁴ Sweden joined the EU in 1994.



The economic crisis of 1991–1994 was a watershed. It shifted the governance model from the earlier social engineering during the reform years after the Second World War towards neoliberal deregulation, new public management and market solutions. Public services are now managed by quantitative targets and are being gradually privatised, while public infrastructures are being transformed into private corporations. There are fewer, simpler and more general regulations. The centre-right government of 2006–2014 deregulated the labour market, making it easier to produce in supply chains with casual and/or imported labour. Overall, class differences have increased and the Gini-coefficient rose from 0.23 in 1995 to 0.32 in 2016 (SCB, 2018).

Reductions in manufacturing and corporations that focus on their core business have created more supply chains with more and smaller firms and workplaces (AV, 2012). Four out of five of the 45,000 new firms starting up per year produce services (Ds, 2008). From 1993 to 2015, the registration of new firms and their number of employees more than tripled (Ekonomifakta, 2017). Compared to other sectors, private services include smaller and more short-lived firms, younger staff and a higher staff turnover (Frick, 2005). There are now 300,000 private employers (with some 350,000 workplaces), 86% of which are micro firms (1-9 employees) accounting for 22% the 2.9 million people in private employment. A further 11% are small firms (10-49), accounting for 23% of employees, 2% are medium firms (50-249), employing 19% and 0.4% are large firms (250+) with 35% of private employees. The 1.6 million public employees mainly work within welfare services for local authorities, and within governance and administration (SCB, 2015).

Outsourcing to supply-chains has grown. The public sector purchases goods and services for one sixth of the total economy: mainly privatized welfare services and mainly from small firms (Upphandlingsmyndigheten, 2018). Part of this growth has been in franchising firms, which accounted for more than 3% of all employees in 2015 (HUI Research, 2018). Self-employment tripled between 1981 and 2016 (Ekonomifakta, 2018), but much of this may be 'fake' self-employment - i.e. those that are employed in reality (SOU, 2017; LO, 2018). This and temporary employment have grown to account for 14% and 20% respectively of all employment. Of those in temporary employment, some 40% have zero-hour contracts or are on stand-by (SCB, 2014). Staffing agencies offer another form of flexible labour. These had some 200,000 employees in 2015 (75,000 as full-time and whole year (Arbetet, 2017)). At the same time, it has become more costly not to work, as both sickness and unemployment benefits have dropped to 69% and 61% of previous earnings respectively for workers and even less for those with higher salaries (Arbetet, 2018a).

6.2.2 Weaker labour relations and unions but collective agreements still rule

In 'the Swedish Model' labour conditions have traditionally been sparsely regulated and mainly settled by collective agreements upheld by the social partners, which are particularly strong in Sweden. Nevertheless, at the peak of the unions' strength, during the 1970s, LO (the Swedish Trade Union Confederation) and the long-ruling Social Democratic party, initiated work reforms that remain the basis of Swedish labour law. Apart from the Work Environment Act (WEA), the most important of these were Acts on:

- union representation on company boards
- shop stewards' right to take paid time for their role
- lay-off rules on 'first in, last out'
- co-determination, i.e. the right of the unions' local representatives to information and consultation before employers take major decisions that affect employees

Labour's strength and the centralised labour market model eroded both before, and especially during, the economic crisis in the early 1990s. Tripartite corporatism has been dismantled and collective agreements are now reached at the industry level (though they are nationally co-ordinated). In combination with the changing economy and labour market (described in the previous section), this has affected the trade unions. The white-collar unions in TCO (the Swedish Confederation of Professional Employees, which now covers 38% of union membership) and especially the academic unions in SACO (the Swedish Confederation of Professional Associations, now covering 19%) have grown, while the LO federation's blue-collar unions have shrunk (to 43% (Kjellberg, 2018)).



Unionisation fell to 69% in 2015, with 74% organisation in white-collar and 63% in blue-collar unions. Membership varies from 81% or more among public employees to under 50% in private services, and even less in MSEs and among those in precarious employment. More than half of employers now lack collective agreements (Kjellberg, 2018). Union and industrial relations conditions vary substantially by sector. For example, according to a construction RSR, of some 40-45,000 construction workers in greater Stockholm, the regional union Byggnads-Stockholm has 15,000 members and represents 6,000 members from other parts of Sweden. Some 10-15,000 are unorganised, including those in fake 'self-employment'. Finally, there are some 10,000 posted workers – which is much higher than the number officially registered. To reduce unfair competition, Byggnads has signed substitute agreements with minimum conditions for many of the posted workers – even though very few of them join the union – and it runs a campaign with the employers against illegal forms of work in construction.

Some EU decisions have affected industrial relations and thereby the work environment actors. The Directive on Posted Workers and some EU court verdicts (notably the Laval case, C-319/05) weakened the Swedish model of primarily settling wages and most other working conditions in collective agreements, rather than in legal regulations (Bruun et al., 1992). For many years, unions could only take limited industrial action to uphold some minimal conditions for posted workers, the presence of which they found increased the risk of a dual labour market with social dumping (LO, 2013). However, from 1 July 2017 the Swedish Act implementing the Directive on Posted Workers became stricter (SFS, 2017). Unions may now take industrial action to get more than the minimum conditions, collective agreements also apply in part for non-unionised posted workers, and the posted worker's employer must have a representative with authority to sign collective agreements.

Despite all of these changes, much of the Swedish/Nordic industrial relations model remains (Sandberg, 2013). Some 90% of employees still work under collective agreements, as larger employers are organized and the unions sign substitute agreements with many of the unorganized firms (Kjellberg, 2018). Unions and employers still control some formal organs and retain much influence through organised and informal meetings with authorities. The social partners maintain many joint bodies and projects, at national and sector levels, on the work environment, training and other issues. This longstanding cooperation includes TCO's and SACO's white-collar unions and the public employers.

6.3 The work environment system of cooperation, voluntarism and safety representatives

6.3.1 Much voluntarism to implement work environment regulation

Swedish ministries are small and govern indirectly. Policies are specified and executed through the (often large) national authorities. Work environment issues are handled by the Swedish Work Environment Authority (SWEA). SWEA consults extensively with the social partners (which uphold labour relations issues). Work environment policies were reformed during the 1970s, including through the 1978 Work Environment Act (WEA, 2016). WEA is a framework act with broad requirements and a general preventive duty for employers (which extends to their hired labour), for those who produce, import or market products for work, and for actors in the construction process. Prevention is further specified in provisions issued by the SWEA under mandate in the Act. Since the 1990s, many of the detailed requirements in the provisions have been replaced by fewer and overarching performance-oriented ones.

The major provisions are those on Systematic Work Environment Management (SWEM (AFS, 2001), see below). But in 2015, SWEA also issued the much noted provisions on the Organisational and Social Work Environment (AFS, 2015) on risks from workload, working times and bullying at work. Their implementation must be part of employers' SWEM. These new provisions have been accompanied by a great deal of information by SWEA, aimed in particular at employers. This is in line with Swedish work environment policies that, since their instigation, have been consensus oriented and primarily aim to advise and persuade employers to assess and address risks (see below). The overwhelming majority of employers comply with SWEA's non-binding inspection notices without the need for cumbersome legal enforcement (Frick, 2011a, 2011b; see also section 6.3.4 below). However, enforcement has increased, albeit from low levels. The approximately 16,000 workplace inspections carried out in 2017 (AV 2018a;³⁵) resulted in 775 direct

³⁵ Statistics on SWEA workplace inspections. Mail 2016-04-13 from Lennart Johansson, Arbetsmiljöverket.



sanctioning fees for violations of clearly specified requirements, 1,002 injunctions and prohibitions, and 176 cases were referred for prosecution. Yet with most inspections targeting medium and large employers, the 290 or so labour inspectors (down from 355 in 2006 (Arbetet, 2018b)) visit each MSE only once in about 50 years.

6.3.2 Regulation and supervision of systematic work management

The 1993 provisions on Internal Control transposed the EU's Framework Directive (89/391/EEC), but with stronger worker participation and better quality control through auditing and (if necessary) improvement of prevention. The provisions were updated in 2001 and renamed Systematic Work Environment Management (SWEM). They have become, by some distance, labour inspectors' most cited provisions (AV, 2018a). A research review evaluated how employers comply with the provisions (Frick and Johanson, 2013; Frick, 2013a, 2014). As manager surveys have serious flaws, the review was based on some 270 reports of (multiple) case studies and of other reviews, comparative studies, labour inspections campaign reports and work environment statistics. The review evaluated SWEM by industry and size. However, despite variations between more and less ambitious employers, practices turned out to be very similar across industries. This high level of consistency supported the reliability of the review's findings.

The evaluation distinguished between three levels of management control in the provisions' sections (as a program-theory, in the terms of Pawson and Tilley, 1997):

- I. What should be done? Procedures to detect and abate risks
- II. How should it be done? Capable actors to implement the procedures
- III. Management control: to ensure that SWEM procedures eliminate or reduce all risks, notably section 11 requiring a regular audit and (if needed) improvement of SWEM.

Medium and larger employers comply best at the first level: the required procedures. Specifically, from some 200 employers, nearly all organise SWEM with documented task allocation, risk assessments and action plans for unresolved problems. However, the assessments are not always carried out and they are rarely comprehensive. In addition, plans do not go far enough upstream and they are not always implemented. This SWEM is more effective against technical risks in on-going operations than against organisational risks and when changes are planned. Large employers often have employee surveys with questions on psychosocial risks, but few have a SWEM that acts effectively against such risks. These may instead recur as, for example, high stress levels in subsequent surveys.

The greater focus on documented procedures than on eliminating risks is mainly the result of deficiencies at the second level of control. Employers rarely empower their SWEM actors sufficiently. Written task allocations and instructions and at least some training are normal, but instructions are often unclear and training is mostly insufficient. Most importantly, the SWEM evaluation found that managers (and others) rarely have enough resources – in terms of time, funding, competence and authority (as is required in the provisions) – for their SWEM. Many technical risks are still not assessed and resolved due to managers' limited SWEM capability. The third required level – to ensure that SWEM assesses and resolves all major risks – is the least implemented. Policies rarely have objectives that are clear enough to guide SWEM and against which to evaluate its practices and results. If SWEM is audited at all, the focus is on procedures (for example, numbers of safety rounds and joint meetings). Although many employers monitor reported accident risks, they generally disregard the fact that occupational diseases are by far the most common risks faced by workers (Takala et al., 2014).

6.3.3 Fewer and less active safety representatives

Workers are to cooperate with the employers to implement SWEM, mainly through their safety representatives (SRs) (WEA, chapter 6). The WEA stipulates that local unions shall appoint SRs at workplaces with five or more employees, and in those workplaces with fifty or more employees, unions and employers shall set up joint work environment committees. Unlike other union representatives, SRs speak for all employees, as well as for hired workers. SRs have rights to take paid time off to be trained, to be informed and consulted on all relevant issues and to speak to workers. If the employer does not swiftly answer a formal SR request for action, the SR may appeal to SWEA, which is then obliged to quickly inspect the



workplace (WEA, 6.6a). And if the SR notes an acute and serious danger, and if this cannot be immediately fixed by asking the employer, the SR may stop work pending SWEA's decision (WEA, 6.7).

Around 2015, the unions had 96,600 SRs. LO unions had 59,492 (21 working members per SR (Gellerstedt and Melin, 2016)), TCO unions some 31,550 SRs (one for every 32 working members³⁶), and SACO's unions around 5,600 representatives (one for every 98 working members (Fristedt, 2013)). The number of SRs per employee has fallen by more than a third since 1989, mainly due to the strong shift towards white-collar jobs, where there are fewer representatives. The SR ratio varies by industry. In 2004 (the latest available general figures), in workplaces with at least five employees, there were representatives in 3% to 10% of private service workplaces, rising to 21% in construction, 35% in manufacturing and 79% in the public sector (Arbetskydd, 2004). In 2012, 25% of LO's single SRs (i.e. those in small firms) and 36% of single SRs in construction, reported that they had been chosen by managers and not by the union (Gellerstedt, 2012). Such SRs have legal rights only if they are registered by the unions.

SRs' time spent carrying out their duties has shrunk. In 1996, LO's safety representatives' activity alone equalled some 10,950 full-time equivalent positions (FTE). This had dropped to some 6,500 FTEs in 2012, partly because there were fewer LO representatives, but also because the SRs themselves had become less active. SRs in TCO and SACO likely add at most 1,000 FTEs, bringing the total to some 7,500 full-time equivalents. Surveys by all three union federations in 2012 found that most SRs experience reasonable cooperation with their managers (Gellerstedt, 2012; Fromm, 2012; Fristedt, 2013). But some quarter of the SRs (and around a third of those working in MSEs) reported that they could not take enough time for their duties (with about 40% reporting that they could take enough time). However, although SRs still have a substantial amount of dialogue with managers, the SWEM evaluation found that this is less effective in practice. Managers rarely have enough time, competence and resources to resolve all the issues raised. Furthermore, this dialogue seems to have deteriorated. Thirty percent of TCO's SRs reported that being a safety representative had worsened their relations with management (Fromm, 2012), while 8% to 17% of LO's representatives in the service industries reported that managers obstructed them (Gellerstedt, 2012). In 2016, 32% of LO's SRs felt obstructed by managers, 12% reported that managers harassed them and 6% had faced violence in their SR role. The situation was generally worse in private services than in manufacturing (Gellerstedt and Melin, 2016). The unions rarely react to such harassment because of the cumbersome process involved in suing employers, according to a union OSH officer. The rise in the number of SRs' appeals to SWEA is another sign of more conflict between SRs and managers. SR stops of acutely dangerous jobs (in accordance with WEA, 6:7) had increased to 100 per year in 2015, but formal requests for a direct labour inspection (WEA, 6:6a) have risen sharply from under 100 per year in the early 1990s to 500-600 in 2011-15.³⁷ At the same time, 11% of the safety representatives in LO's survey reported that they had been appointed by their employer. This was most common in construction and in private services (Gellerstedt, 2012).

6.3.4 Strategy and funding for an informed work environment dialogue

Various experts are an important fourth group in Swedish work environment policies. Safety representatives' major means of influence is normative power - convincing managers to act by the strength of their arguments (including by referencing the regulations). However, which issues SRs can raise and resolve very much depends on how they, as well as the managers and workers, define their work and its risks. The 1970s reforms included a government 'enlightenment strategy': to promote voluntary improvements by spreading knowledge of risks, but also of workable solutions, to workplaces. Substantial funding has subsidized:

- Research and development (R&D) on work environment and working life issues and dissemination of its results
- Employers hiring of multi-disciplinary occupational health services to spread and apply the risk solutions defined by the increased R&D
- Training of safety representatives and managers

³⁶ Mail with data and experiences on safety reps in TCO's union. From Lise Donovan, TCO, 2016-03-09.

³⁷ Statistics on safety reps use of the WEA's sections 6.6.a (formal appeal to SWEA) and 6.7 (emergency stop of work, also to be settled by SWEA) 2004-2014. Mail 2016-03-21 from Lennart Johansson, Arbetsmiljöverket.



Budget cuts after the 1990s crisis reduced funding for R&D, training and information, while the subsidy to occupational health services was abolished in 1993 (Håkansta, 2013). In 2007 further cuts closed the National Institute for Working Life (NIWL), but SWEA still gets appropriations to produce and disseminate information. The social partners have partly compensated for this with more funding from their central and industry-based bodies for R&D, training and information. Although safety representatives often want more training (Gellerstedt, 2012; Fromm, 2012; Fristedt, 2013), the enlightenment strategy still supports the legitimacy of raising work environment issues (even for investors (Almquist and Henningsson, 2009)). For example, the employers' organisations initially opposed the provisions on the organisational and social work environment, but now train their members in how to implement them (Suntarbetsliv, 2016). However, locally, consensus varies and managers often lack competence (see section 6.3.2 above). Friction between employers and safety representatives has also increased (as indicated in section 6.3.3). These problems are especially common in MSEs.

6.4 RSRs as the main support to MSEs with high risks and poor prevention

6.4.1 Small firms – more work risks and weaker preventive actors

Workers compensation (WC) claims and compensated sickness days are commonly used as work environment indicators in Sweden, but both measure social insurance rules and reporting more than actual work risks (Sundström-Frisk and Weiner, 2005; Larsson, Marklund and Westerhom, 2005). However, an epidemiological review estimated that there are around 3,000 work-related fatalities per year in Sweden, of which around 50 are accidents (Takala et al., 2014). It found that work-related ill-health costs Sweden some 4% of its GDP. When the broader and long-term erosion of work ability (i.e. for a delayed retirement) was included, the costs were considerably higher. The carefully crafted (Wikman, 1991) bi-annual work environment and work health surveys to employees also describe work risks in various industries and professions. They indicate widespread mental and/or physical work overload, but large groups still also face technical risks, such as noise, chemicals, vibrations or accidents (AV, 2014a, 2014b).

There is even less information about risks and ill-health by size of employer. MSEs have a lower sickness absence, but this probably reflects on their higher staff turnover (SOU, 2011). SWEA (AV, 2014c) claimed that accident risks shrank with employer size, but their study ignored MSEs' huge under-reporting (Bengtsson, 2000). Antonsson, Birgersdotter and Bomberger-Dankvardt (2002) and Bornberger-Dankvardt et al. (2005) instead demonstrated that MSEs' workers faced much higher risks of fatal and other serious accidents. Nise, Sundh-Nygård and Hogstedt (1995) also measured significantly higher chemical exposures in MSEs than in the small workplaces of larger employers.

Higher risks are in line with the findings of many studies relating to MSEs' weak prevention arrangements (Hasle and Limborg, 2006; EU-OSHA, 2018a). In Sweden, Frick (2013a: chapter 10) found that firms with over 10 to 20 employees had often started some SWEM procedures, but MSEs' preventive compliance is generally low, as they rarely try to become capable of assessing and managing risks. Experience and uncomplicated management enable them to handle some risks through ad-hoc solutions, but most are overlooked. MSE managers mostly overestimate their knowledge and 'prevention' and downplay the risks. Avoiding harm is thereby unloaded on to MSE workers' behavioural safety. MSEs' workers are supported by the few local safety representatives as are appointed for at most 40,000 of the 150,000 workplaces with more than four employees (SCB, 2017; Frick, Erkişson and Westerhom, 2005; Frick, 2013b). Their position is weak because the social construction of work and its risks is dominated by their managers (SOU, 1972; Sjöström, 2013; Frick, 2013b) and they often get too little time for their duties (Gellerstedt, 2012).

6.4.2 Regional safety representatives as the main support to MSEs and their workers

Sweden's micro and small firms – making up 86% and 11% of all firms respectively – thus rarely have a SWEM capable of handling their widespread work risks, and they rarely hire external advisors to compensate for their weak internal prevention (Antonsson, 2011). As mentioned above, at best labour inspectors monitor MSEs once in some fifty years – a substantial fall from once in eleven years in 1994 (Frick, 1996). Instead, regional safety representatives are by some considerable distance the main actor in promoting health and safety in MSEs, with their 55-60,000 visits per year (AV, 2017, 2018b). The RSR system was proposed by a parliamentary inquiry dominated by unions and employers' organisations (SOU, 1972). This emphasized that



effective prevention required 'the Swedish model' of an organised and informed workplace dialogue between managers and workers' safety representatives, that the basis for this cooperation was weak in small firms, and that:

- work environment management had to be stimulated in most small firms
- their workers had to be more engaged in the work environment dialogue
- it was often difficult to find and appoint local safety representatives in small firms, and
- if local SRs were appointed, they were often too dependent on management to fully promote improvements, especially costly ones.

The inquiry therefore unanimously proposed that the existing limited system of regional safety representatives should be extended to all of the labour market. In the reformed Work Environment Act (1977, 6:2, paragraph 3), RSRs are 'local' representatives in workplaces where they are appointed, with a right to enter, to monitor and to a dialogue on the work environment and the employer's SWEM. They may also appeal to SWEA for rapid inspections and, in emergencies, stop work. Safety representatives' rights are not upheld by SWEA but by the appointing union, which can sue employers for obstruction (for example, for refusing RSRs access, although, as noted above, legal actions are rare (Gellerstedt and Melin, 2016)).

LO unions started to appoint RSRs, but in later decades all TCO unions with small firm members, and many in SACO, have also appointed RSRs. All unions in primarily public sector jobs have also appointed RSRs for privatised service MSEs. There were 1,676 regional safety representatives in 2017 (311 as full-time equivalents), covering some 540,000 workplaces (of which some half are temporary construction sites (AV, 2018b)). Of these, 1,104 were from LO unions (242 FTE), 505 (61 FTE) from TCO unions and 64 (8 FTE) from eight SACO unions. This is roughly the same RSR activity as in 2005 and 1995, although the workplaces they are to cover have increased to 280,000 from 180,000 in that time (SOU, 2017; Frick, 1996). Of the RSRs' 56,000 workplace visits in 2017, LO RSRs carried out 48,000 visits, TCO RSRs 7,000 visits and SACO RSRs 1,300 visits (AV, 2018b). Safety representatives are funded by the employers, but it was not feasible to make MSEs pay the RSRs' costs. The government instead reimburses the unions' costs, but the appropriations have grown more slowly than the RSR system. Currently, government funding is 110 million SEK, while the unions (mainly LO and TCO) subsidize the RSRs with 106 million SEK. Even so, the activity of RSRs and local SRs in MSEs is only some third per worker compared to their provision in larger workplaces (Frick, 1996; Frick, Eriksson and Westerholm, 2005). As other actors do little, this means that there is substantially less competent time to promote prevention in MSEs than in other workplaces.

The trade unions differ in size, conditions of production and industrial relations. This results in varying types, numbers and operation of RSRs. Only Transport RSRs are full-time representatives. In large workplaces, many are experienced local representatives, often chief safety representatives, who are also RSRs as a side-task. But most are union officers who are RSRs on a part-time (though sometimes close to full-time) basis, due to the shortage of funding and of experienced local representatives (Frick, 1996; AV, 2018b; SOU, 2017). RSRs are (as FTEs in 2017 (AV, 2018b)) most common in the LO unions Kommunal (which has many members in privatized welfare services, 64 FTEs), Transport (33 FTEs), Construction (30 FTEs), and IF Metall (the general manufacturing workers union, 25 FTEs). However, TCO's Unionen (for all those in manufacturing and commerce) has expanded its activity to 32 FTE RSRs.

MSEs per RSR vary from very few to more than 2,000. RSRs in construction visited 3% of their 400,000 temporary sites in 2017, while stationary LO unions' RSRs visited 41% of their MSEs. TCO and SACO unions' RSRs (which have less funding) visited 3-8%. RSRs also provide a great deal of support by mail and phone, as well as training safety representatives and participating in development projects, often jointly with the employers.

6.4.3 What RSRs do – standard procedures, legal roles and broad issues dealt with

RSRs operate by union instructions, as well as often also by agreements with the employers. LO's (2011) guidelines for RSRs emphasize areas such as planning, training and instructions for their activities, based on integration in overall union activities with work environment training for all officers. RSRs must also always be clear with managers about the role in which they are visiting workplaces and follow the detailed reporting instructions. This results in a structured and mostly standardised manner of operation. Workplaces are



selected based on the union's RSR plan and workplace knowledge, and with a route to minimize travel time. Managers are normally notified in advance (Frick, 1996; SOU, 2017). However, this is less often the case in construction, partly so as to avoid sites to be cleaned up and partly as many visits are responses to acute workplace requests, according to a construction RSR. At the workplace, RSRs present themselves, their task and the purpose of the visit to the manager (this can be done by phone if s/he is absent). Then the RSRs usually check (mainly SWEM) documents such as task allocations, risk assessments, action plans, and the records of their implementation, as well as details of the training of managers and of any local SRs. Next, LO's RSRs carry out a safety round of the premises and talk with workers, especially any safety representatives (and try to recruit such, where possible). RSRs normally end by discussing their observations and proposed improvements with the manager, and for clarity provide them with a written note. Finally, the RSRs file an activity report, including problems and required improvements. White-collar RSRs focus mainly on talks with managers, members/employees and safety representatives (LO, 2011; AV, 2018b; TCO, 2017, 2018).

By law, RSRs have three tasks (Frick, 1996): to minimize work risks, to support local SWEM and to promote worker participation in the SWEM. The yearly reports (AV, 2017, 2018b; TCO, 2017, 2018), interviews with RSRs and union OSH officers and earlier studies (Frick, 1979, 1996, 2009) confirm that this is what RSRs do. They identify and propose solutions to many thousands of risks – that vary by industry – often citing SWEA's provisions. Through this, and through directly raising SWEM issues, RSRs help managers to improve their SWEM. And RSRs recruit and train very many safety representatives, so improving local SWEM dialogue. For example, in 2006, the RSRs recruited 100 new local representatives in restaurants (Frick, 2009). RSRs thereby act as the organised 'workers' voice' envisaged by the social partners (SOU, 1972), in three respects: they speak for the workers as they use their experiences to resolve risks; they relocate the main burden of prevention from the workers to the employers/managers' SWEM; and they improve local dialogue by appointing, training and supporting safety representatives.

However, micro firms, which are the vast majority, have limited capabilities to organize a preventive SWEM (Frick, 2013a, chapter 10) or to find local safety representatives (SOU, 1972). RSRs support MSEs' SWEM, but they also have to focus in particular on resolving risks. Where there are local safety representatives, they prefer RSRs to raise difficult issues, including stopping acutely dangerous jobs. In the Stockholm district, construction RSRs stop work roughly twice a week. The risks (normally falls from height) are then nearly always directly resolved with management, according to a construction RSR.

RSRs support small firms in all industries including, nowadays, those where work is office-based. The risks they encounter are equally diverse, as are their interventions to abate them. LO unions' RSRs still mainly deal with 'traditional' risks, such as accidents, noise, chemicals and widespread MSD risks. With the economic changes outlined earlier in this chapter, many of these risks (re)appear in new forms, for example through outsourcing of risks to subcontractors and hired, or even illegal, labour, according to RSRs from several unions. However, all RSRs notice the risks associated with stress resulting from high workloads. For example, the HRF union's RSRs support immigrant women hotel cleaners who are afraid to complain to managers that they have far too many rooms to clean, which results in very high musculoskeletal workloads (Dahlqvist et al., 2017).

The provisions on the organisational and social work environment (AFS, 2015) were the major focus of 20% to 40% of the LO unions' and half or more of the white-collar RSRs' workplace visits during 2017 (AV, 2018b). For example, LO's commercial workers' RSRs reported increasing problems of harassment, stress, reduced staffing, robberies, lack of breaks, working alone and a higher workload on fewer permanent employees who have to guide more and more temporary colleagues from labour hire agencies. TCO's teachers' RSRs very often deal with stress (high rates have been revealed by several surveys), which is getting worse due to a severe shortage of teachers. RSRs in Unionen (which is the dominant union in terms of size and RSR activity within TCO (TCO, 2017, 2018)) often face high workloads and unlimited work (including in relation to dealing with mail and phone calls, as well as working at home and/or outside office-hours). They find a strong link between such organisational risks and both lack of risk assessments and a generally poor SWEM.



6.4.4 Contrasting RSR cases: construction workers and theatre employees

According to a construction RSR, technical measures can reduce risks, but these are poorly implemented where there is more pressure and less time for prevention, where responsibilities are unclear in subcontracting chains, and where more jobs are carried out simultaneously in cramped areas, as well as where there are many foreign workers who know neither Swedish nor the safety practices and where illegal labour is common. Shorter deadlines also increase the stress for all on the sites. Overall, it is hard for site managers to assume their work environment responsibilities. Hence the regions' RSRs regularly use their right to request answers from the employers and thus frequently stop work. RSRs select sites to visit (within each RSR's areas in the region, to save journey time) based on the RSR plan, alerts and other tip-offs. Managers also request information, which can result in visits. The construction employers want pre-announced visits, but the RSRs rarely do. It is difficult when sites come and go and, as one interviewee put it:

The bad ones would clean up their sites before we arrive....We anyhow often see undocumented workers running off the sites when we come.

Regional safety representative, construction

As noted earlier, the researcher was able to accompany an RSR on a number of construction site visits. On one such occasion, the site in question was part of a large project converting buildings into condominiums. The RSR noted that (as is often the case) most of the many workers were migrants, and could not speak Swedish. He immediately asked a supervisor to get one of them off the scaffold while it was properly secured. At the office, it took time to find the work environment coordinator. The RSR noticed very cramped staff facilities. The manager accompanying the RSR on the site said that they had had to call in many more workers than they had expected, but promised to improve the facilities. The document check then revealed shortcomings, including insufficient specification of how to handle high risk jobs. Other risks were noticed in the safety round, such as blocked fire exits. The RSR finally mentioned that he would specify his observations in a report, and asked for a written response and to be invited to the next safety round to check improvements. The dialogue with the manager was polite and relaxed, and the manager seemed to appreciate the feedback (possibly as it would support giving a higher priority to his area of responsibility). The RSR explained:

If you want to get results, you have to take it easy, even at problematic sites.

Regional safety representative, construction

While construction RSRs deal with traditional risks, in new organisational settings RSRs in TCO's Theatre union deal with the risks associated with a precarious working life. Nearly all the 8,000 members are temporarily employed for each production. During 2016 their 11 RSRs (4 FTE) trained 182 people, had some 2,500 mail and phone contacts and visited 520 workplaces. In 2017, their 396 visits were mainly to the 500 permanent sets and to some film sites. The RSRs inform managers and employees of the industry's risks, of their rights and duties, and how to cooperate in SWEM, and try to elect safety representatives. The union and their RSRs cooperate with the employers. For example, in 2017 this resulted in a policy against sexual harassment (TCO, 2017, 2018).

6.4.5 No effectiveness evaluation but many indicators of RSRs' positive role

The effects of the government subsidy of the RSRs' activities have not been evaluated. Ekonomistyrningsverket (ESV; the Swedish National Financial Management Authority) noted this when it audited the government's RSR funding and proposed improved reporting and accounting procedures (ESV, 2009). As effectiveness measurements are not feasible, ESV proposed better reporting of the RSRs' preventive and action-oriented accomplishments. The former include, for example: *'training of employees and employers; establishment of work environment policy, SWEM, risk assessments, support for the work environment efforts'*; while action oriented accomplishments include, for instance, *'report from work environment monitoring'* (p. 35).

The government did not implement ESV's proposal that SWEA should evaluate RSRs. This may be linked to its large funding cuts for SWEA and work life research (Håkansta, 2013). SWEA still issued detailed



guidelines in 2010 for the union's RSR reports of accomplishments in terms of numbers of: RSRs (as FTEs); visited workplaces; workplace visits (some of which were follow-ups to the same workplaces); main content of those visits (percentage of each of the four categories used by SWEA); advice by phone and email; RSRs' training; and external training given by RSRs. These figures are combined with specified financial accounting and qualitative descriptions of the RSRs' activities and the problems and changes they note.

Since then the unions' reports (AV, 2017, 2018b; TCO, 2017, 2018) list all these RSR accomplishments. By far the majority of their 50-60,000 visits result in notes on risks and proposed improvements, mainly to micro firms without risk assessments. The reports often list the many safety representatives that RSRs have helped elect and train, which is another important '*support for work environment efforts*'. Details of RSRs' stops of work are not a requirement in the reports, but with the availability of details of both their number in construction and the sector's share of all stops, they can be assessed to be some 1-3,000 per year.³⁸ MSEs have comparatively more serious accidents than their larger counterparts, so RSRs' threats of or actual work stops likely prevent a great many more.

The qualitative reporting also describes how RSRs promote the goal of their government subsidy. The LO unions' reports focus on how RSRs intervened against various types of risks, and on how economic changes increase risks and hamper prevention. The RSRs raise SWEM with managers but positive results are difficult, as the vast majority are working in micro firms. White-collar RSRs focus even more on SWEM. For example, the RSRs for Journalists, Symf (classical musicians), Theatre, and Vision (welfare services) described many cases where they had resolved conflicts between managers and staff in workplaces under economic pressure and started a SWEM cooperation to assess and abate risks (TCO, 2017, 2018).

6.5 RSRs' challenges, employers' critique and ineffective conflict resolution

6.5.1 RSRs operate in a fractured labour market with more and smaller firms

The new reality for the constant number (as FTE) of RSRs can be summarized as a tripling of workplaces and of new firms to cover from 1993 to 2015. Four out of five new enterprises are private service firms. As noted earlier, these are smaller, more short-lived and have a younger staff with a higher turnover than other MSEs (Frick, 2005). As indicated above, 86% of employers are now micro firms, with another 11% small firms; and 55% lack collective agreements. They have 10% of the workers – some are union members – and nearly all are micro firms in private services, with weaker traditions and more hostility towards unions (Kjellberg, 2018).

The RSRs' MSEs have also become even less capable of assuming their employer responsibilities. Service micro firms have limited work environment traditions and competence. Their businesses and work risks are heavily dictated by tough price competition and/or larger clients, such as in supply-chains (SOU, 2017; EU-OSHA, 2018a). The need for RSR support further increases as local dialogue deteriorates. Safety representatives in MSEs are much fewer, notably less active, face more resistance from managers and more of them are 'appointed' by managers, (i.e. the motives for the RSR system by the social partners, as outlined in section 6.4.2 (SOU, 1972)). Even so, more MSEs lack support from RSRs. More lack union members as unionisation declines (Kjellberg, 2018) and/or have 'joint work environment committees' organised by management. The unions find that many committees that deny RSRs entry violate the WEA, but they have to sue employers to fight such 'fake' committees (SOU, 2017).

In the 2006 survey, LO's RSRs reported that most employers and workers were passive towards work risks, especially in the service industries. However, they found that employers were either positive (55%) or neutral (43%) at their first visit, and the relationship mostly improved over time. About a quarter of RSR visits were even initiated by the employers. The RSRs' proposed improvements were mainly received positively (56%) or neutrally (37%) (Gellerstedt, 2007). The unions' yearly RSR reports also often comment on their relations with employers/managers. Nearly all of TCO's and SACO's white-collar RSRs describe this as positive. The RSRs may identify serious problems and find that managers are ignorant of risks and how to tackle them, as well as of their duties. Nevertheless, these RSRs initiated dialogues with managers and workers on improvement processes, that were appreciated by the employers.

³⁸ Statistics on safety reps use of the WEA's sections 6.6.a (formal appeal to SWEA) and 6.7 (emergency stop of work, also to be settled by SWEA) 2004-2014. Mail 2016-03-21 from Lennart Johansson, Arbetsmiljöverket.



However, some LO RSRs meet more resistance. Livs (food industry) described how city employers have become less cooperative, questioning RSR rights, obstructing them and refusing entry. And RSRs in the construction industry unions find that the growing internationalisation and fragmentation in supply chains increase difficulties in communicating with workers and managers, when neither speak Swedish or English and there is no interpreter. It may also be hard to find out who the responsible employer is in a mix of jointly working sub-sub-contractors. Likewise, RSRs in the service unions HRF (hospitality), Transport, Kommunal (public sector, but also privatised care) and Handels (commerce) all report a tougher climate (AV, 2017, 2018b; TCO, 2017, 2018).

6.5.2 Increased RSRs' rights of entry proposed in response to economic changes

A public inquiry on legal work environment responsibilities in modern working life (SOU, 2017) analysed economic changes such as the growth in outsourcing, self-employment (including fake self-employment), supply chains, temporary employment, hired labour, own employment (with hiring all administration from a coordinating agency), IT-based work from home directly with customers, digital platform work, posted foreign workers and black labour. Yet, by far the majority still have permanent contracts in traditional employment relationships. However, health and safety responsibilities should be clarified in several situations, such as self-employment, multi-employer work (or work-sites), IT-based work and new app-based services. The inquiry rejected a general work environment duty for procurers and instead proposed a further study of the legal definitions of employers and employees and of a possible broader work environment responsibility for those with authority over the work and its conditions (Johnstone, Quinlan and Walters, 2005).

The inquiry also looked at the RSRs right of entry in the changing labour market. It proposed that unions could also appoint RSRs for workplaces without members but with a union link (normally) through a collective agreement. As unions have substitute agreements with many MSEs, including those without members, RSRs would get more right of entry in many industries, such as construction and hospitality, while it would make less difference in transport firms, according to union OSH officers. The enlarged entry right for RSRs was to start from 2018. However, so far, the government has not proposed a bill to change the Work Environment Act, as there is no majority in parliament to support this change.

6.5.3 Employers want to abolish the RSR system instead of extending it

Svenskt Näringsliv (SN, the employers' organisation) rejected much of the inquiry's analysis and proposals, including the extension of RSRs' right of access. In a report, they proposed abolishing union appointed safety representatives, suggesting that the government RSR subsidy should instead fund independent advisors to MSEs' SWEM, and local safety representatives should be elected by the work group (i.e. the reserve alternative in the WEA, when there is no collective agreement (SN, 2017)). The consequences would be strongest in MSEs, especially in private services. Their unionisation is lower, they have fewer local safety representatives and more conflicts around these areas. The RSR system was created by the social partners as lone safety representatives in MSEs were considered too vulnerable, and hence ineffective (SOU, 1972). Their abolition would thus make effective workplace dialogues in small firms dependent on managers' benevolence – managers that research consistently demonstrates mostly lack competence and fail to prioritise work environment prevention.

SN rejected the Swedish model of a collectively based dialogue through union appointed safety representatives as it had become harder for unions to recruit local representatives, when many workplaces have few or no members. Forty-five per cent of firms with 5-10 employees and 73% of those with 11-50 employees have safety representatives, but most are appointed by workgroups or managers rather than unions (i.e. they are rarely legally safety representatives according to the WEA definition). This was the finding of a survey to managers, but SN gives no information on response rate or any methodological details.³⁹ It is difficult to measure SWEM through manager surveys, which often produce very exaggerated figures compared to all other data (Frick, 2013a). SN's survey, therefore, provides no real supporting evidence.

SN presents several reasons to abolish the RSRs. Firstly, they suggest that, even with a less formalised SWEM, MSEs generally manage their work environments well and have few risks. While MSEs make up 95%

³⁹ Mail 2017-11-07 from Amelie Berg on no information on the survey. In SN, 2017, Svenskt Näringsliv.



of all firms, the report claims that *'work environment management is effective in the vast majority of firms'* and *'Swedish firms generally have very good work environments'* (SN, 2017, pp.11). However, SN only supports this with a very brief and selective reference to the extensive evidence to the contrary, that firms very often violate their preventive duties and that MSEs have even higher risks and poorer prevention (see section 6.4.1 above). For example, the report mentions that SWEM benefits from a long relationship between permanent employees and managers, but not that MSEs in fact have more temporary employment and higher staff turnover. SN is also critical of the lack of evaluation of the effectiveness of the RSR subsidy and their activities. However, while there is indeed no such evaluation, this critique disregards all the numbers and descriptions indicating how RSRs promote the MSEs' SWEM and problem solving, provided in the unions' yearly RSR reports (see section 6.4.5 above).

6.5.4 Employers find that RSRs are mostly helpful but also often misbehave

Despite questioning the RSRs' usefulness, SN generally finds that the RSR system works well and that MSEs often appreciate RSR support (as presented in SOU, 2017). However, member firms also complain of perceived misbehaviour (SN, 2017;^{40;41}), suggesting that RSRs too often confuse their union and RSR roles and/or hamper rather than promote cooperation:

- a) RSRs obstruct firms' attempts to improve work environment cooperation when they refuse to accept local safety representatives appointed by the employees as well as joint work environment committees with such safety representatives as members. In the latter case, RSRs still insist on their right to supervise the workplaces.⁴²
- b) In two service industries, employers disliked the fact that some RSRs also work at the premises of competitors.
- c) RSR requests are too similar to labour inspection reports, which makes it too easy for small firms to confuse them.
- d) RSRs ask for all SWEM documents, including risks assessments and action plans, which may be difficult in an often informal management system.⁴³
- e) RSRs misuse their right of entry to pursue union interests, including in relation to: settling pay disputes, recruiting members and checking staffing issues and lists of wages and sub-contractors (SN, 2017;^{44;45}).
- f) Transport employers have had requirements from rival RSRs, when their two unions competed to sign collective agreements with the employer.⁴⁶
- g) RSRs require exaggerated or even unfounded improvements. An RSR stopped the same work twice, despite the fact that SWEA repealed the first stop.⁴⁷ Another insisted that a storage shelf needed railings at the back to prevent parcels from falling down. Such protections are normally required, but this shelf was bolted to the wall. The firm had to contact its employer organisation, which made the union get the RSR to withdraw the unfounded request.⁴⁸

6.5.5 Much unfounded criticism of the RSRs but poor dialogue in disputes

The inquiry to extend the RSRs right of entry, therefore, unleashed a great deal of employer criticism, especially from the service industries, though other employers referred to many MSEs that appreciate RSR support. However, some of the critique seems rather more indicative of MSEs ignorance of the regulations than of RSR misbehaviour:

⁴⁰ Notes by Amelia Berg, Svenskt Näringsliv from a meeting 2016-12-16 on the proposal to extend the right of entry for regional safety reps, with the work environment experts of the member organisations.

⁴¹ Mail 2017-12-19 from Jan Arvidsson, work environment expert at Transportföretagen.

⁴² Notes by Amelia Berg, Svenskt Näringsliv from a meeting 2016-12-16 on the proposal to extend the right of entry for regional safety reps, with the work environment experts of the member organisations.

⁴³ Notes by Amelia Berg, Svenskt Näringsliv from a meeting 2016-12-16 on the proposal to extend the right of entry for regional safety reps, with the work environment experts of the member organisations.

⁴⁴ Notes by Amelia Berg, Svenskt Näringsliv from a meeting 2016-12-16 on the proposal to extend the right of entry for regional safety reps, with the work environment experts of the member organisations.

⁴⁵ Mail 2018-01-02 from Lise-Lotte Argulander. Företagarna.

⁴⁶ Mail 2017-12-19 from Jan Arvidsson, work environment expert at Transportföretagen.

⁴⁷ Mail 2017-12-19 from Jan Arvidsson, work environment expert at Transportföretagen.

⁴⁸ Mail 2018-01-02 from Lise-Lotte Argulander. Företagarna.



- a) In MSEs with collective agreements, 'safety representatives' which have not been appointed by the union are not legal representatives. It is the RSR's duty and right not to accept joint committees built on such fake representatives (even if, as mentioned, they are cumbersome to challenge in court).
- b) RSRs, including chief safety representatives from competitors, must not reveal information gained in their duties and can be sued if they do. RSRs within the industry have instead spread good work environment solutions between firms (Hedman, 1984).
- c) RSR visits are important but remain scarce. Written improvement requests – a safety representative's right – are hence important for clarity and effectiveness.
- d) MSEs must have access to SWEM documents and it is the RSR's duty to inspect these.

Nevertheless, *how* RSRs pursue these legal rights and duties is important for their dialogue and cooperation with the MSEs (cf. section 6.4.4 above on the benefit of staying calm, even when conditions are bad). This remains a matter of interpretation in each case, as is other criticism of the RSRs:

- e) Work environment and industrial relations overlap substantially. If RSRs try to recruit incorrectly appointed 'safety representatives' as members, this is part of their duty. Lists of staff – often with wages – and of subcontractors, are legitimate work environment information. Although pay disputes are outside their remit, the RSRs' view is that they are regularly asked – including by managers – to settle such problems during their visits.
- f) The appropriateness of the two competing RSRs' visits to the transport MSE hinges on how consistent and correct their requirements were. If they were, then the MSE should simply implement the improvements, but if they were not, the RSRs may well have misused their rights.

However, the last point (g) shows that RSRs sometimes require too much and do not listen to MSE managers. This comes as no surprise to the unions. That many of the MSEs' points of criticism are matters of interpretation of each visit, demonstrates the fact that RSRs have a complex and sensitive task. With some 1,700 RSRs doing 50-60,000 visits per year, the LO unions (which are involved in nearly all of the disputes) understand that in some cases RSRs may act improperly. They have therefore repeatedly asked the employers' organisations to raise all cases when they find that RSRs misbehave, so they can be resolved between the social partners. However, the unions rarely receive any specific RSR complaints, but only reports of general employer dissatisfaction, according to union OSH officers.

The employers have an opposite view not only of the balance between supportive and obstructive behaviour by the RSRs, but also of the central social partners' lack of dialogue on this. Employer experts state that they have complained to the unions about how RSRs act like labour inspectors, but with little response or change.^{49;50;51} The construction employers have some 1,000 such disputes per year (on around 13,000 RSR visits). The transport employers have specified many examples of improper RSR behaviour to the union, but with little response and no change in how RSRs act.⁵²

Regional safety representatives are the most important support for a healthy work environment in MSEs. This is clearly supported by a substantial body of evidence, none of which is contradicted in the employers' critical report. However, whether or not RSRs also occasionally (as the unions believe) or much too often (as the employers claim) misbehave is an open issue. The social partners must talk in order to resolve this superficially simple issue and so have any chance of mending this serious fracture in the weakest, but arguably most important, part – support for MSEs – of the Swedish work environment model.

⁴⁹ Notes by Amelia Berg, Svenskt Näringsliv from a meeting 2016-12-16 on the proposal to extend the right of entry for regional safety reps, with the work environment experts of the member organisations.

⁵⁰ Mail 2017-12-19 from Jan Arvidsson, work environment expert at Transportföretagen.

⁵¹ Mail 2018-01-02 from Lise-Lotte Argulander. Företagarna.

⁵² Mail 2017-12-19 from Jan Arvidsson, work environment expert at Transportföretagen.





7 The United Kingdom

7.1 Introduction

The UK is one of Europe's larger economies with a long history of trade union representation on OSH. However, aside from some provisions aimed at a few particular and exceptional situations, there are no special legislative requirements concerning the role of trade union prevention agents in micro and small firms. Such arrangements, where they exist, are therefore usually either the result of voluntary agreements between the stakeholders involved, or a consequence of ad hoc trade union strategies aimed at supporting vulnerable workers that are difficult to reach with conventional organising strategies. The ad hoc nature of these approaches, along with their localised and largely undocumented application, makes it difficult to determine the extent of their impact systematically. Nevertheless, they provide information to allow some degree of comparison with the approaches we have documented in the other countries involved in the present study. In addition to these particular examples of actions involving TUPAs, there is some evidence of recent wider trade union actions that are not aimed directly at improving participatory engagement of workers and their representatives in improving OSH arrangements in MSEs, but which nonetheless may help to do so indirectly. These actions are often responses to features of fissure and fracture in the structure and organisation of work in the current economy which create scenarios that are hard to reach with conventional trade union organising and mobilising strategies. Since the presence of MSEs is often prominent in these scenarios, such wider trade union actions are also relevant to our inquiry.

In this chapter, the role of MSEs in the UK economy is outlined, before a brief review of the research on arrangements and outcomes for OSH in these firms is presented. This is followed by an account of the regulatory framework for representing workers on OSH and its wider labour relations context, paying particular attention to their relevance for workers in MSEs. Research on recent experiences of trade union involvement in initiatives to provide support for OSH in MSEs is reviewed and its key findings on 'what works' are presented. Bearing these findings in mind, the chapter then considers examples of current experiences of these and similar initiatives before discussing their significance, both in terms of what determines their success and what limits their further development. This allows some conclusions to be drawn concerning the relevance and significance of trade union prevention agents in current approaches taken by trade unions and others to the OSH of workers in MSEs in the UK.

7.2 Micro and small firms in the UK

Although traditionally the UK economy has been dominated by large and medium sized establishments, small and micro firms have always been a significant presence both numerically and with their contribution to the socio-economic infrastructures of communities. The restructuring of work and the labour market at the end of the 20th century and its continuation to the present time has further raised their profile, as outsourcing and the growing use of business relations within supply chains to achieve 'economic efficiencies' are increasingly part of the way organisations manage their operations. This has occurred in both the private and public sectors, while in the latter the increased presence of smaller organisations has also been occasioned though privatisation of formerly public services such as health and social care.

The resulting profile of micro and small enterprises in the UK economy is summarised in Figure 7.1 and Table 7.1. MSEs are most abundant in sectors such as agriculture, construction, property, professional, scientific & technical, information & communication, retail, motor trades, and arts, entertainment, recreation & other services – in each case making up over 98% of all UK enterprises in the sector. This trend in the growing significance of smaller firms within economy, now established in the economic profile in the UK for some decades, is continuing. For example, in 2014 there were 351,000 business start-ups in the UK, which is the highest recorded number since comparable records began in 2000.⁵³ And by 2015, there were 5.4 million small or medium sized enterprises (SMEs) in the UK, representing 99.9% of all businesses, providing 60% of employment, employing 15.6 million people and accounting for 47% of turnover.⁵⁴ At the start of 2017, there were 5.7 million private sector businesses in UK. Over 95% of these were micro businesses and a further 4% were small, meaning that together micro and small businesses accounted for over 99% of total

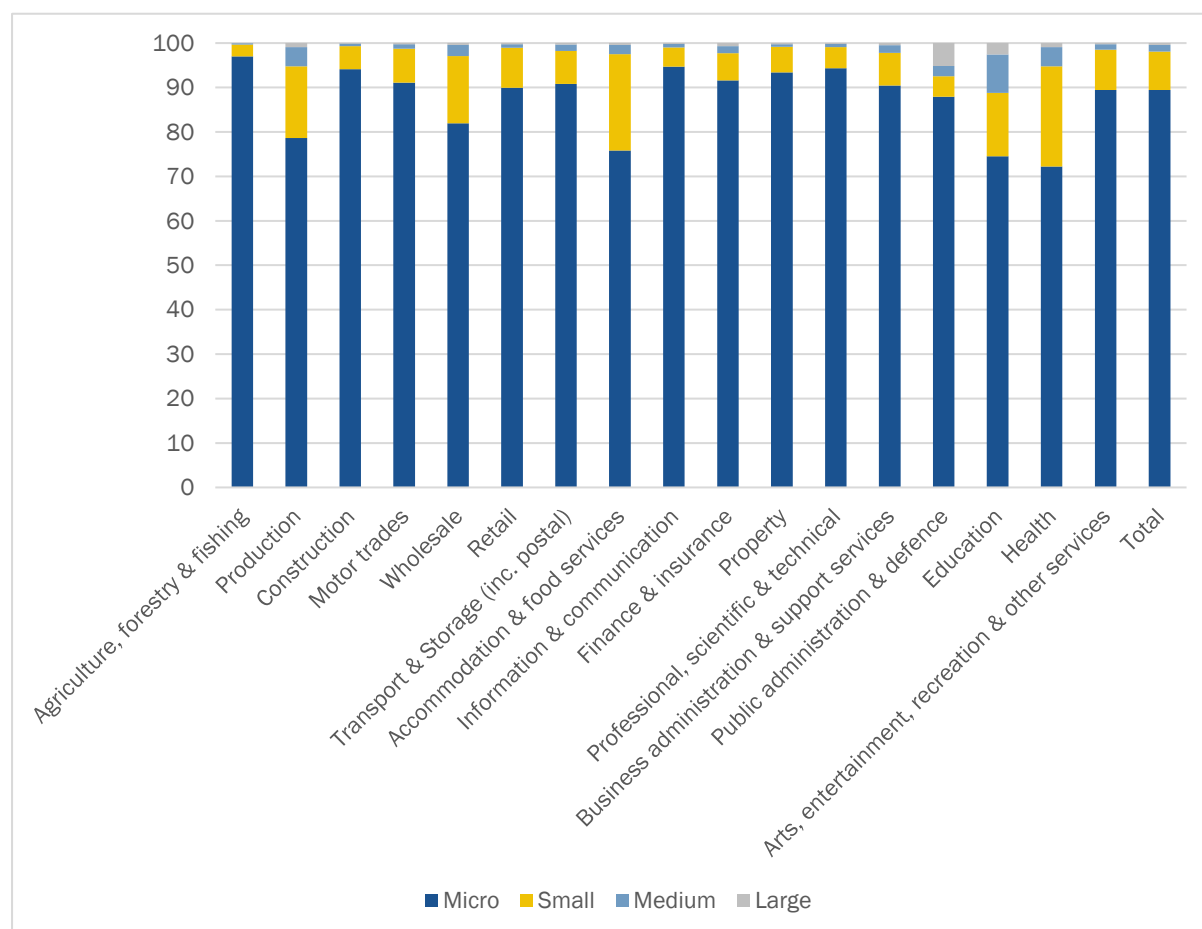
⁵³ <http://www.iosh.co.uk/Books-and-resources/IOSH-SMEs-policy.aspx>

⁵⁴ <http://www.iosh.co.uk/Books-and-resources/IOSH-SMEs-policy.aspx>



UK private sector businesses. Furthermore, sole proprietorships made up 76% of such businesses (BPE, 2017).

Figure 7.1: Proportion (%) of enterprises⁵⁵ by industry and size in the UK, 2017



Source: Office for National Statistics

⁵⁵ Includes: companies (including Building Societies), sole proprietors, partnerships, public corporations/nationalised bodies, central government, local authorities and non-profit bodies or mutual associations.



Table 7.1: Number and % of enterprises⁵⁶ by industry and size in the UK, in 2017

	Micro		Small		Medium		Large		Total	
	N	%	N	%	N	%	N	%	N	%
Agriculture, forestry & fishing	143,320	96.97	4,000	2.71	410	0.28	65	0.04	147,795	100
Production	117,090	78.65	24,005	16.12	6,395	4.30	1,380	0.93	148,870	100
Construction	301,065	94.12	16,575	5.18	1,915	0.60	305	0.10	319,860	100
Motor trades	68,370	91.07	5,755	7.67	765	1.02	185	0.25	75,075	100
Wholesale	84,745	81.95	15,670	15.15	2,565	2.48	435	0.42	103,415	100
Retail	177,075	89.98	17,615	8.95	1,630	0.83	480	0.24	196,800	100
Transport & storage	99,230	90.80	8,145	7.45	1,540	1.41	375	0.34	109,290	100
Accommodation & food services	113,915	75.80	32,670	21.74	3,110	2.07	595	0.40	150,290	100
Information & communication	205,580	94.73	9,320	4.29	1,740	0.80	385	0.18	217,025	100
Finance & insurance	51,025	91.58	3,405	6.11	920	1.65	365	0.66	55,715	100
Property	87,020	93.39	5,350	5.74	585	0.63	225	0.24	93,180	100
Professional, scientific & technical	451,740	94.34	22,785	4.76	3,545	0.74	755	0.16	478,825	100
Business administration & support services	206,450	90.47	16,730	7.33	3,940	1.73	1,065	0.47	228,185	100
Public administration & defence	6,285	87.90	330	4.62	165	2.31	370	5.17	7,150	100
Education	36,010	74.55	6,875	14.23	4,170	8.63	1,245	2.58	48,300	100
Health	86,735	72.22	27,125	22.58	5,135	4.28	1,110	0.92	120,105	100
Arts, entertainment, recreation & other services	151,085	89.44	15,360	9.09	2,000	1.18	485	0.29	168,930	100
Total	2,386,740	89.43	231,715	8.68	40,530	1.52	9,825	0.37	2,668,810	100

7.2.1 Injuries, fatalities and work-related ill-health in MSEs in the UK

It is evident from the Figure and Table in the previous subsection that MSEs are a significant presence in sectors in which there are high risks of work-related injuries and ill-health. However, straightforward comparison of OSH outcomes by establishment size and sector are well-known to be unreliable. This is the result of reporting and compositional effects, including those associated with workforce features such as sex, age and length of service (as well as others that are far more difficult to measure – for example, the security of employment, supply chain position, and features of work organisation and intensification, and so on). Injuries and ill-health are notoriously under-reported by MSEs, but there are also differences in the extent of reporting by sector, with under-reporting in some sectors far higher than in others. All this makes comparisons that do not account for these variations fairly meaningless. This said, studies focusing on single sectors, such as manufacturing, that have taken account of these complications demonstrate that there is greater risk of fatalities and serious injuries occurring among MSEs than among their larger counterparts (see Nichols, Dennis and Guy, 1995; Nichols, 1989) – and this despite the likely increased level of under-

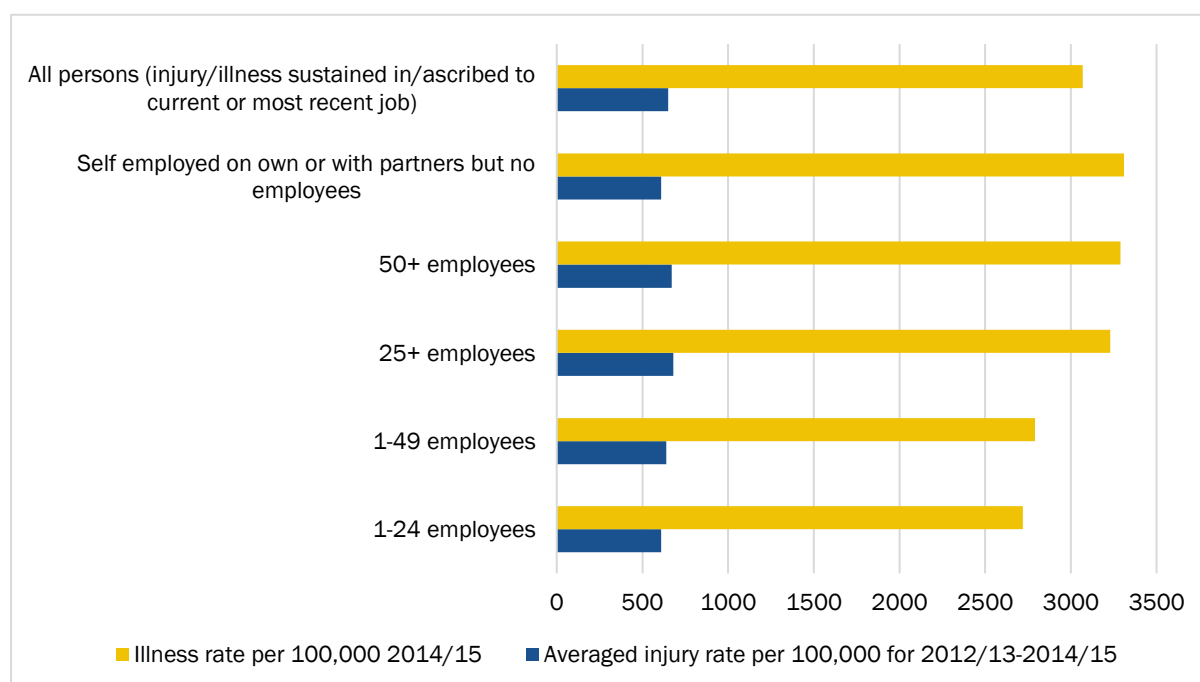
⁵⁶ Includes: companies (including Building Societies), sole proprietors, partnerships, public corporations/nationalised bodies, central government, local authorities and non-profit bodies or mutual associations.



reporting among smaller enterprises. Similarly, figures for the construction sector (for the five years between 2003/2004 and 2007/2008) show that two-thirds of fatalities were among the self-employed or those working for firms employing 15 or fewer workers and two-thirds of accidents occurred on small sites (with 15 or fewer workers), making it very clear that those working for smaller firms in the industry are at greater risk (HSE, 2009).

Recent figures also show that the highest prevalence of work-related illness was among the smallest businesses – those with no employees. Similarly, the highest incidence of work-related injury was among businesses with 25<50 employees (Figure 7.2). Although these differences are not statistically significant, they nevertheless seem to support the wider literature in pointing to poorer outcomes for those working in smaller firms in the UK.

Figure 7.2: Work-related injury incidence and prevalence rates by business size, Great Britain



Source: Labour Force Survey, Great Britain

7.2.2 Industrial relations systems and representation on OSH in MSEs in the UK

Historically, the United Kingdom has had a strong tradition of trade unionisation. However, membership levels reached their peak in 1979 at 13 million and fell by 38% to 8.3 million by 1994 (Sweeney, 1996; Millward, Bryson and Forth, 2000). Although there has been some stabilisation since the late 1990s, numbers are still falling, with most recent figures showing that around 6.5 million employees belonged to a trade union in 2015. This represents 24.7% of UK employees and is the lowest rate since 1995 (a decline of 7.7 percentage points in those 10 years). Over that same period, membership rates fell from around 35% to 22% among men, while among women they have remained broadly stable at a little under 30%.

Union density also varies significantly by sector: it is highest in the education (52%) and public administration and defence (46%) sectors and lowest in the accommodation and food services sector (3.5%).⁵⁷ Industrial sectors with traditionally high membership rates have seen substantial falls. For example, union density in the manufacturing sector fell from 33% in 1995 to 17% in 2015. These figures also show that, across all sectors, just over 40% of UK employees (42.7% in 2015) were in a workplace where a trade union was present. This is a fall from 46.1% in 2010 (Achur, 2011). In 2015, 27.9% of employees' pay and conditions were affected by a collective agreement, down from 36.4% in 2000. In fact, collective agreements have

⁵⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525938/Trade_Union_Membership_2015_-_Statistical_Bulletin.pdf



declined in both the public sector, where they are much more common (they covered 64.5% of employees in 2010, down 3.6% from 2000 (Achur, 2011), and by 2015 had fallen to 60.7%), and the private sector (they covered 16.8% of employees in 2010, down 5.7% from 2000 (Achur, 2011), and by 2015 were at 16.1%). Figures from the 2004 and 2011 Workplace Employment Relations Study (WERS) surveys⁵⁸ also show that union density varies significantly by sector and has declined even within this relatively short period. WERS survey figures further show that most of the decline in the rate of union recognition has occurred among small workplaces

The presence of 'direct methods' of consultation on health and safety is also a function of workplace size. Such methods are much more common in smaller workplaces, with both representatives and joint committees much more commonly found in larger workplaces. However, these health and safety arrangements are not only a function of size, they are also affected by union recognition. On average, workplaces that lack union recognition are consistently more likely to resort to so-called 'direct methods', even within the same size bands. Trade union recognition has been falling over the last quarter of a century. In the Workplace Industrial Relations Study (WIRS)/WERS series for 1980, 64% of establishments with 25 or more employees had recognised trade unions. This had fallen to 42% by 1998 and to 39% by 2004. In the 2004 and 2011 surveys in workplaces with five or more employees, the proportion that recognised trade unions had dropped to 22% and was constant in both surveys. By 2011, union recognition was also much lower in the private sector, with public sector workplaces accounting for the majority of workplaces where unions are recognised. Also, in the findings of the 2011 WERS, in workplaces with five or more employees, the proportion of all employees who belonged to a trade union declined from 31% in 2004 to 29% in 2011, which is in line with the slow downward trend seen in official statistics covering all employees (see Brownlie, 2012). Again, decline is most marked in the private sector.

The WERS (2011) survey (see van Wanrooy et al., 2013) showed that employee representatives and consultative committees were present in 21% and 11%, respectively, of workplaces with five or more employees.

The trade union position in relation to safety and health in small firms is, therefore, complicated by the very low levels of union penetration, particularly outside more traditional sectors (such as manufacturing). That is, while trade unions are concerned about OSH in small firms, including in micro enterprises, their low presence among them is a significant limitation to turning such concern into effective actions through traditional trade union strategies. In addition, they, like all the other relevant bodies, are struggling with the altered framing of the debate around regulation to one in which doctrinal features of neoliberal ideology have been transformed into a set of foundational assumptions about what regulation can, and ought to, look like (EU-OSHA, 2016). In this way, a wider, so-called, 'common sense', orthodoxy has replaced more specific attempts at deregulation and 'at every stage, a neo-liberal, small-state agenda of individualized, business-oriented, narrowly-targeted regulation has exerted considerable influence over the direction of policy' (Almond, 2015, pp.229). This has helped alter the profile of the UK system for OSH, and has influenced the positions taken by all the main actors within it, including regulatory and professional bodies, trade unions and employers' organisations.

7.3 Arrangements and procedures for representing workers on OSH in the UK

The original UK provisions on worker representation on OSH, found in the Safety Representatives and Safety Committees (SRSC) Regulations 1977, were unusual in the way they created a single-channel model of industrial relations of health and safety, in which trade unions received rights to represent workers' interests. The decline of unionisation is therefore particularly significant for worker representation on OSH because, not only does research indicate that its effective operation is dependent on support from trade unions, both inside and outside establishments, but because at the time the regulatory framework for worker representation on OSH was introduced in the late 1970s, trade union influence was at its height. This strongly influenced the discourse behind the introduction of regulatory provisions, it was significant in determining the nature of the provisions and it helped distinguish these measures from the participatory arrangements for health and safety envisaged in the Robens Report (Robens, 1972).

⁵⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336651/bis-14-1008-WERS-first-findings-report-fourth-edition-july-2014.pdf



Decline in trade union membership and influence, resulting in the 14 million UK workers who do not belong to trade unions, led to concern about the extent to which the UK provisions adequately addressed consultation rights for *all* workers. In line with the requirements of the EU Framework Directive 89/391, in which all workers are entitled to be consulted and represented on health and safety, in 1996 new measures were introduced to supplement the existing provisions in the UK. Direct participation of workers and their non-trade union representation in health and safety arrangements was provided for by the Health and Safety (Consultation with Employees) Regulations 1995. However, these regulations added nothing of practical substance to the existing legal framework for worker representation and consultation, and they allowed employers so much discretion in their application that they were (and remain) both ineffective and unenforceable (James and Walters, 1997).

The SRSC Regulations 1977 contain a curious and underutilised provision that allows workers in situations akin to those found in the majority of small workplaces, rights to peripatetic forms of representation but restricts these rights to members of unions representing actors and musicians. Under Regulation 8 of the SRSC Regulations these unions may appoint representatives who do not need to be employees of the same employer as their constituents. In effect, this allows these unions to appoint the equivalent of regional/territorial representatives. In the case of the Musicians' Union, this right is regarded as critical. In the view of the Union's health and safety officer (Walters, 2004b):

No way would we get into workplaces without the legal right. We would be shown the door, or we would not even get through the door.

However, this right is limited to a comparatively tiny group of workers and their trade unions and not extended to others in similar situations, nor has there ever been any serious attempt to achieve such wider regulatory extension.⁵⁹ As such, it is regarded as a somewhat anomalous provision with very limited application. There has been little institutional support for the musicians and actors' unions' efforts to operationalise their statutory entitlements, a factor that has played a significant part in their very slow development since the rights came into effect in 1978.

As a result, representation on OSH in small workplaces takes place in only a limited way and as a consequence of successful trade union initiatives and collective agreements, as outlined in the next sub-section. The voluntary nature of these arrangements was not the choice of trade unions, however, and at various times during the history of the application of the SSRC Regulations, they have made an effort to demand regulatory reforms to address these issues, although their demands have met with relative indifference on the part of a succession of governments.

More than twenty years ago, the election of a Labour government in 1997 led to widespread indications that regulatory reforms, including those to consolidate and strengthen the existing statutory provisions on worker representation and consultation on health and safety in relation to smaller firms, might take place. Measures for regional/territorial representatives were canvassed by the trade unions in the UK after the Trades Union Congress (TUC) adopted a resolution to this effect in 1998. Responses to a Health and Safety Commission (HSC) discussion document (1999) on reforms for regulation on worker representation in health and safety, indicated overwhelming trade union support for statutory measures to this effect. However, as described below, the HSC eschewed the opportunity to make the necessary legislative changes and instead advocated a voluntary approach (HSC, 2000).

Expectations were further fuelled by pronouncements from government ministers concerning the importance of the role of health and safety representatives. However, concrete development on promised new regulatory proposals was tardy. Finally, in July 2003, a set of regulatory proposals drafted by the Health and Safety Executive (HSE) was put before the HSC. Normally, discussion at this level would be expected to result in an amended set of draft regulations published as a Consultation Document. By this means, public opinion would be sought and then, following further discussion and possible amendment by the HSC, a final set of draft regulations laid before Parliament. However, in this case, apparent failure of the HSC to agree to the original HSE draft seems to have led to abandonment of the revision of the legislation on worker representation. Instead, the HSC decided that a voluntary approach was the way forward. In November 2003, the HSC

⁵⁹ Although there is some evidence in wording of early drafts of the Regulations that suggests the legislators may have had a broader application in mind in their original conceptualisation of this right of access.



announced that further efforts of the HSC to reach agreement on revised regulations were a poor use of resources, and declared that, anyway, such regulations would risk introducing a more bureaucratic system that would have little effect on what should be the regulations' main target—workers and employers in small and very small companies.

In place of the expected regulations, the HSE was instead charged with seeking agreement on an evidence-based statement as the basis for securing greater worker involvement. The statement was proposed in tandem with a HSC strategy promoting a non-regulatory approach to workplace health and safety and suggested a series of non-regulatory measures to encourage worker involvement (HSC, 2004). In the statement, great emphasis was placed on the government's financial support for the development of these voluntary arrangements, and especially for building partnerships between trade unions and employers' groups to promote health and safety in small firms through a Worker Safety Advisors scheme. However, as described in the following subsection, while this scheme led to some interesting initiatives, it operated on a very small scale and encompassed only willing and committed participants (Walters, 2005). In the first of its three years of funding, for example, it supported the appointment of only 28 worker safety advisors for the whole country. As a model for more widespread representation of workers' interests in health and safety in small firms, therefore, it had limitations and provided little justification for the HSC's apparent belief that it could have widespread application without further regulatory support.

In 2004, the Parliamentary Work and Pensions Select Committee undertook an inquiry on the work of the HSC/HSE. It heard evidence from a large number of interest groups, and in its report refuted the notion that best results on worker representation could be achieved without further statutory interventions (House of Commons, Work and Pensions Committee, 2004a). It expressly recommended that 'by October 2005 the HSC publishes proposals to develop improved rights to consultation for employees, particularly in nonunionised workplaces, including rights of enforcement through its Employment tribunal and private prosecution routes'. However, the government response to these recommendations was to reiterate the HSC commitment to voluntary approaches, extol the virtues of the Worker Safety Advisors scheme and its funding, and expressly reject the need for further regulatory reform, stating:⁶⁰

The Government considers that current legislation concerning worker involvement and consultation on health and safety is adequate and it does not believe that further legislation, including new rights on enforcement, to be either beneficial or likely to attract the necessary wide-ranging stakeholder support to be effective.

Since this time, and until very recently, there has been no further debate concerning regulatory measures to support trade union representation on OSH in micro and small firms or workplaces.

7.4 Examples of recent and current experiences of efforts to represent workers on OSH in MSEs in the UK

An early article that examined employee representation in health and safety in small enterprises in the UK and compared these practices with those in Sweden concluded that regional health and safety representatives offered a potentially cost-effective contribution to improve the organisation and arrangements for preventive health and safety in small enterprises (Walters, 1998). In the UK, this research had studied a voluntary initiative that had been introduced in agriculture, led by the trade union that organised agricultural workers but with the support of the tripartite committee for agriculture — the HSC Agriculture Industry Advisory Committee — and the employers' organisation. Schemes based on 'roving safety representatives' for farm workers had been pursued by the agricultural trade unions intermittently since the early 1990s. Evaluation of these approaches stressed their limitations when enacted unilaterally and without the backing of legislation or the full voluntary support of all the parties affected (Walters, 1997). They eventually led to a joint scheme in which roving representatives were appointed alongside a number of employer sourced health and safety advisors. The role of the trade union as a support for health and safety expertise remained an important feature of the joint scheme.⁶¹ However, despite positive evaluations of this

⁶⁰ House of Commons, Work and Pensions Committee, 2004b

⁶¹ This is clear from records that can be found in the minutes of the HSC Agriculture Joint Advisory Committee from the early 1990s to the early 2000s.



scheme, once its limited funding had been used up, it proved to not be sustainable on anything like a scale sufficient to have a significant impact in the sector and it was eventually wound up.

Following the debates of the late 1990s described in the previous sub-section, in a much-publicised national initiative the HSE/HSC introduced its Worker Safety Advisor Scheme, in 2003. It was adopted in various sectors (but, curiously, not agriculture) and emphasised the tasks of building participative health and safety arrangements within workplaces, alongside other tasks of advising on health and safety practices, as being of fundamental importance. It received a substantial level of institutional support and funding from the HSC/HSE and the co-operation of various employers' organisations in the sectors concerned. Independent evaluation of the scheme concluded:⁶²

... the activity of Workers' Safety Advisors can make a difference to the standards of health and safety practice at small workplaces.

Specifically, the evaluation found:⁶³

- *nearly 73% of employers said awareness had increased on health and safety matters and a third of employers stated that communications had improved*
- *over 75% of employers said that they had made changes in their approach to health and safety as a result of the pilot, with those changes taking place in:*
 - *revising or introducing new policies and procedures (61%);*
 - *regular health and safety discussion with staff (21%);*
 - *risk assessments being carried out (11%);*
- *nearly 70% of workers observed an increase in the amount of discussion on health and safety*
- *the pilot facilitated the creation of safety committees in some workplaces and joint working on risk assessments and training for workers.*

Many of the Worker Safety Advisors were former trade union representatives and functioned in practice in a manner broadly similar to regional health and safety representatives. However, under the conditions of the scheme, which was widely publicised as a cooperative initiative, they were for political reasons not regarded as such, but rather as products of partnership agreements between various stakeholders interested in improving OSH in small enterprises.

Despite the success of the scheme, as suggested by the above evaluation, when the initial three-year period of its resourcing came to an end the arrangements it had created also rapidly ceased operation.

The Worker Safety Advisor's scheme was not the only small-scale instance of a voluntary initiative involving trade union representation on OSH for micro and small firms. As well as the earlier interventions in agriculture, other voluntary arrangements resulting from collective agreements can still be found, such as those in some parts of the financial services and construction sectors. In the banking sector, for example, there are arrangements to allow trade union representatives access to worksites on a regional basis, by voluntary agreement between the unions and the employers in the sector. On some large construction sites where the principal contractors are among the largest construction firms, full-time trade union health and safety 'convenors' provide representation not only for workers employed by these principal contractors but also, by agreement with them, for workers employed by other contractors and subcontractors.

Organising strategies for enhancing health and safety representation in small firms are also evident to varying degrees in sectors in which there are large numbers of workers in small enterprises. Here, for many years, unions have, of necessity, had representation strategies accounting for problems of size and fragmentation. They may have made no overt attempt to set up formal schemes for regional representation, but many of their practices reflect elements of such schemes and gradually merge into organising strategies in which they are explicit. The Union of Shop Distributive and Allied Workers (USDAW), for example, has a well-developed system for representing its members in small workplaces through the appointment of organisers (many of which are former workplace representatives) that cover large numbers of different workplaces usually within a particular region. Enterprises in the UK retail industry are characterised by chains

⁶² Shaw and Turner, 2003

⁶³ Shaw and Turner, 2003



of small establishments where there is considerable devolution of managerial autonomy. Health and safety policy is often centralised but relatively poorly understood by the management of individual retail outlets. Health and safety is a prominent issue for union organisers, who provide advice and information, make representations to management and may be involved in investigating hazards and accidents.

In 2008, the TUC published a guide to organising on health and safety. It set out to show how union organisers, officers and health and safety representatives could use health and safety as a tool in campaigns for union recognition as well as to be better organised in already unionised workplaces:⁶⁴

Health and safety has not been an explicit element of our push for organising. In 1998, we launched new unionism and the academy. OSH is only coming on board now, which is in part because we are progressing in how we approach organising and becoming more sophisticated – branching out in different directions. ... Organising is no longer a bolt on. It is built into everything we do. ... Health and safety and organising complement each other. Better organisation makes for better OSH and vice versa.

Amongst these union organisers, health and safety has therefore been increasingly perceived as a membership recruitment issue. There is also a perception among some trade union organisers that health and safety has become a more prominent workplace issue. This is attributed partly to greater awareness of health and safety issues and greater prominence of deteriorating working conditions. It is also sometimes a result of difficulties in representing workers on other matters of pay and working conditions, where, in contrast, representation on matters of OSH gains more traction (Walters, 2001, pp. 293–295). However, these perceptions are by no means held universally among organisers and their trade unions. For many, the strategic choice is a matter of where the biggest gains are to be made, both in terms of membership and impact on labour relations, and this, for the reasons outlined in the Introduction to this report, often militates against trade unions committing their scarce resources for union organising to the situation of workers in MSEs.

Despite these challenges, in 2018 the TUC produced guidance on representing workers in micro and small firms in which it reiterated the provisions of the SRSC Regulations 1977 in relation to actors and musicians, pointing out that there is nothing stopping trade unions from using them to negotiate similar arrangements covering their own sectors and indicating it to be perfectly permissible for unions to negotiate improvements to the current arrangements so that safety representatives can, by mutual agreement, represent workers in several different workplaces or across a range of employers. The guidance suggests there is no blueprint for the perfect scheme and points out that arrangements made depend on the sector and on the nature of workplaces where trade unions have membership, but stresses that there are examples of such initiatives being successful, including in schools, the health service, construction and the voluntary sector. It states:⁶⁵

Many unions have been successful in developing some form of roving safety representatives. Here are a few examples:

- *Several unions have got employers to agree that health and safety representatives can inspect areas of work where contractors are working, raise issues with the contractors, and discuss safety matters with the contractor's staff.*
- *In the voluntary sector, where there are a number of small employers, unions have in some cases, been able to negotiate that a safety representative covers a number of employers.*
- *Some local authorities have agreed that, in schools, there is a system of roving safety representatives whereby several representatives are given time off to visit other schools to inspect. This is paid out of a separate council-wide fund.*
- *In one ambulance service, management have supported a scheme where 12 roving health and safety representatives cover all the ambulance stations in the area. Previously the policy had been to have one safety representative per station, but in practice, this had not been achievable.*

⁶⁴ Quoted in Loudoun and Walters, 2009

⁶⁵ TUC, 2018



- *One branch got their employer to agree that health and safety representatives would be given time off to visit all locations, even those where there were no union members. Health and safety representatives can visit these sites and raise concerns. They have been able to recruit a significant number of them, and as a result some of these workplaces now have union health and safety representatives.*

Obviously, these are small scale, ad-hoc and unevaluated examples. But two of their features are striking. First there is the similarity of their approaches and the prominence of the role played by TUPAs in each of them. Typically, these schemes rely on local negotiation to reach agreements with employers concerning their operation. They are frequently the result of joint actions between more than one trade union and often in relation to a number of employers, where an agreement is reached, for example, to allow existing representatives to extend their cover to workers of other employers, who may be working at the same worksite or at different worksites within the same locality. Or they are commonly the result of negotiated agreements between trade unions and larger employers with multiple worksites and fragmented management systems, that allow representatives based at one site to travel to and have access to other sites operated by the same employer. To this extent, their features can be seen to be responses to the increasingly fissured and fragmented structure of work and employment highlighted in the work of researchers such as David Weil (Weil, 2014). Their second striking feature is their similarity to those approaches we have described in previous chapters, especially in Spain and Italy. While in the UK, these are usually local and small-scale initiatives responding to needs perceived locally and made possible by the nature of local labour relations, they suggest that a similar set of preconditions may determine the development and effective operation of interventions involving TUPAs, wherever they are found. This is a matter to which we will return in the following chapter.

Other trade union initiatives responding to conditions in MSEs are also seen in the UK. The health and safety of workers in MSEs are not the central concern of such initiatives, rather they are responses to features of the structure, organisation and control of the current economy in the UK, in which MSEs are prominent. That is, they are responses to conditions found in MSEs but which are not exclusive to these enterprises or necessarily focused directly upon them. For example, Wright (2013) notes that the implications of externalisation and supply chain pressures for the organisation of work and production provide an obvious stimulus for unions to develop strategies that are 'attentive to how organisations are embedded within [these] wider institutional structures' (Grimshaw et al., 2005, pp. 261). Their aim is to persuade large firms to use contractors and suppliers that comply with basic labour standards, including those on safety and health, as a contractual requirement. To this end, sustainable sourcing strategies by unions aim to counter-act negative impacts of price and delivery demands imposed by firms on their suppliers (Weil, 2009). Such suppliers ultimately include many small and micro firms that are situated at the ends of the supply chains involved.

There are signs that these strategies are being used more widely by British unions (Simms, 2011). For example, extending collective bargaining and improving working conditions in MSEs and among suppliers and subcontractors, has been a central objective of the living wage campaign in the cleaning industry, where rather than establishing agreements with the contractors that employ cleaners, unions have aimed to secure agreements with the organisations purchasing their services. For it is these organisations that effectively determine the workers' conditions through the price and delivery pressures they impose on their cleaning contractors. Some cleaning contractors and subcontractors are small or micro enterprises and the working conditions that are targeted include those affecting worker safety, health and well-being (Wills, 2009).

Wright (2013) observes that several unions have adopted similar approaches by utilising their position in large unionised entities to raise the standards of the organisation's suppliers and subcontractors. For instance, he argues that the public-sector unions, PCS (Public and Commercial Services Union) and the Communication Workers' Union, successfully used their organising strength to pressure government departments and public entities to secure recognition agreements with non-union employment agencies, and thereby improve the pay and conditions of agency workers. Another large public-sector union, UNISON, also utilised pressure from members working in local governments, state schools and hospitals as part of its strategy for gaining recognition and improving labour standards and working conditions among workers employed by catering and cleaning contractors and subcontractors for these public services. UCATT (Union of Construction, Allied Trades and Technicians) has adopted a similar strategy in the civil construction industry, leading to a number of firms adopting 'framework agreements' with which all contractors and



subcontractors must comply. Also, in construction, UNITE has succeeded in persuading local authorities, such as Bristol, to give their backing to a construction charter that seeks to ensure that conditions for workers on construction projects under local authority control in the city meet the highest standards. The charter commits the local authority to work with the union to achieve the highest standards on various employment issues, including health and safety, and the implementation of appropriate nationally agreed terms and conditions of employment. It covers important local authority construction projects. As the mayor of Bristol, said:⁶⁶

....it's great that we are moving forward with ethical construction practices and I am delighted to work with Unite to make construction sites in the city fairer and safer.

The union's regional political officer said:⁶⁷

The charter will help local workers to operate in a safe environment on construction sites and to ensure they can raise health and safety issues without fear.

The union is seeking to extend the uptake of the charter by other local authorities. Although not directly providing for TUPAs, these agreements have helped improve conditions among lower-tier and self-employed contractors, where both precarious and unsafe work are most likely to exist. They often operate on larger sites where the union can monitor their effectiveness through its safety representatives employed by larger contractors, or occasionally by 'safety convenors', who are super-safety representatives, normally paid by the principal contractor but with access to workers of all on-site employers. Similarly, unions have used their political links to pressure government bodies to incorporate fair employment principles into their procurements policies. Again, all these strategies are not aimed primarily at either MSEs or OSH, but their effects may nevertheless be felt by MSEs and the safety and health of workers within them thus improved.

Another well-documented trade union approach which also helps workers in MSEs, although they are not its primary target, is community unionism and forging links with community groups to work towards improving pay, employment security and OSH for workers who are in poorly paid, precarious and insecure work, often with poor OSH conditions, who are afraid to speak out for fear of losing this work and thus their sole means of economic survival. Often disadvantaged migrant workers, many of these precarious workers whose work is in MSEs, are therefore fearful of engaging directly with trade unions. To take account of this and stimulated by successful experiences of the same kind of approach used by unions and community groups in the United States, trade unions like UNITE have sought to organise precarious workers in the hotel/hospitality sector in London (Serrano and Xhafa, 2016). UNITE also sought to build broader solidarity across large hotel chains, rather than taking each workplace as an individual employer, and used leverage on particular high-profile hotel brands, especially the larger ones that had signed global framework agreements or had corporate social responsibility statements. Both the East London Communities Organization (TELCO), a broad-based community organization, and the national community-based Citizens UK, have been involved with UNITE's work in the sector, particularly during the Living Wage campaigns (Tapia and Turner, 2013). Citizens UK has been effective at using community groups, particularly through local churches and other faith bodies, to raise issues affecting low-paid and often migrant workers in the UK. These initiatives have together yielded some positive results, including improving workers' protection in relation to shift patterns, and bullying managers. Significantly for our purposes, the UNITE branch's campaign persuaded the Health and Safety Executive to undertake an ergonomic study on housekeeping, which led to the introduction of new formal guidance for employers and workers in the sector and the union's involvement in the development of tools to reduce health and safety risks involved with handling materials in hotels. Even though much of the campaign's focus was on influencing the policies and actions of larger organisations, it undoubtedly had some indirect beneficial effects on conditions for precarious workers in MSEs or so called 'self-employed' workers in hotels and catering. The resulting formation of a cleaners' branch led to the appointment of health and safety representatives, and union learning representatives and were important steps in integrating immigrant workers into the union structure. This may help provide a platform for further and more direct action by trade union prevention agents in the future, including those addressing OSH.

⁶⁶ Risks, 2018

⁶⁷ Risks, 2018



All these approaches are, therefore, typical of modern trade union strategies to engage with the problem of non-unionised workers that are hard to reach with conventional organising strategies in the fissured and fractured structure and organisation of many sectors of employment in which MSEs feature. It needs to be stressed that they cannot be regarded as the actions of TUPAs, in the same sense as those that actually involve trade union preventive *agents*, such as described earlier in this section. Rather they are examples of trade union preventive *actions* with the potential to improve OSH conditions for workers in MSEs. However, although such strategies to improve working conditions across organisational boundaries have been increasingly the subject of the industrial relations literature, their uptake remains relatively limited (Wright and Brown, 2013).

7.5 Discussion and conclusions

This chapter has shown that, as with all the other countries in the present study, MSEs form a significant element of the UK economy and account for the employment of a substantial proportion of the workforce. Evidence of their OSH performance strongly indicates it is poorer than in their larger counterparts, across a whole range of indicators, including knowledge, awareness, arrangements and outcomes in terms of fatalities, serious injuries and work-related ill-health. Studies of these features of work in MSEs in the UK have also pointed to explanations for these patterns that are to be found largely in the structures of vulnerability (Nichols, 1997) inhabited by both workers and their employers in these enterprises. Moreover, as elsewhere, there are strong indications that the structural, organisational and controlling factors that lead to this situation are increasing in the current 'fissured and fragmented' nature of work, which has a disproportionate effect on the vulnerability to harm for many workers for whom work in these scenarios is their sole means of economic survival. In such a situation it would seem reasonable to anticipate the strong engagement of the preventive actions of TUPAs in protecting such workers from harm.

However, this is not the case. While we have found a number of small-scale and local initiatives, the extent of the presence and engagement of TUPAs in preventive actions in relation to OSH in MSEs is very limited indeed. There would seem to be several reasons for this. Firstly, although under Regulation 8 of the SRSC Regulations 1977, there is a limited provision made for the appointment of TUPAs in relation to a couple of very specialised forms of employment in the UK, there is no general legislative requirement. Although the stated policy position of the TUC for many years has been to call for regulatory reforms that include measures to support TUPAs, no such reforms have been made. Therefore, all the TUPAs initiatives outside of these limited exceptions under Regulation 8, are undertaken on a voluntary basis and are generally the result of collective agreements between unions and employers. There have been some examples of sectoral initiatives and one of a national initiative, that have been supported by the national authority for OSH, but these proved unsustainable beyond the limited period for which some form of funding was available to support them. Paradoxically, the local initiatives we have described may be more sustainable because they have developed in response to local needs and by agreement between unions and employers acknowledging that they need to be undertaken within the limited means provided through redistribution of existing resources. A corollary of this, unfortunately, is that these limited resources are likely to strongly limit their transferability to other situations and ensure that they remain quite narrowly defined local initiatives.

This said, as we have noted, there is a remarkable similarity between schemes involving TUPAs in the UK and those in place by voluntary or regulatory requirements in Spain and Italy. Most significantly, the majority rely on co-operation between trade unions and employers' organisations and sometimes also between these and public or professional institutions for their support. In the UK, from the late 1990s onwards, taking advantage of a somewhat less hostile political and social environment resulting from the election of New Labour in 1997, a popular labour relations strategy promulgated by the TUC and some trade unions was one of 'social partnership' with employers and employers' organisations, in which their mutual interests were focused upon, in order to develop more favourable means of operation. Proponents (especially among national trade union organisations) of this notion argued that trade unions were no longer able to fundamentally challenge the priorities and interests of employers. Instead they needed to adapt their strategies, 'and seek out issues on which they can forge common or compatible objectives with employers' (Kelly, 1998). Health and safety already had a strong currency as such an issue, and it is not surprising, therefore, that it has been promoted as such by some trade union organisations (for example, see TUC, 2000). Thus, social partnership became a means adopted by trade unions to retain their position in industrial relations, and health and safety is potentially a key organising issue in this respect. This is obviously highly relevant to the role trade unions might play in preventive interventions in health and safety that aim to exploit



the business environment of small enterprises. It was in this climate that the initiatives identified in the previous section, such as the Worker Safety Advisors scheme and to some extent the roving representatives in farm-working, enjoyed their brief success. But overall, the extent to which such schemes were developed, even in such a supportive environment, was quite limited.

While such forms of social partnership remain possible and are to some extent reflected in the current initiatives involving TUPAs, with a changed political climate, partnership arrangements more widely are nowadays regarded as having achieved relatively little. As indicated above, partnership involved unions establishing agreements with employers around the principles of mutual gains through cooperation and joint commitment to the success of the enterprise. In practice they were adopted mainly in enterprises where unions already had a presence, rather than in non-unionised enterprises like MSEs.

Parallel approaches to improving the position of unions, developed at the same time as social partnership, and again influenced by some trade unions in the United States, involved new forms of 'organising' aimed to empower workers by instilling a culture of workplace activism, and the support of skills development to enable them to build and maintain organisational strength. These were advanced as more suitable strategies for gaining a foothold in non-union enterprises where managerial hostility could be expected. Although such organising has been embraced widely and could in theory apply in relation to MSEs, much of its actions have nevertheless focused on existing areas of strength. As with partnership strategies, therefore, unions have struggled to organise in small firms and in the industries and workforce segments where precarious work is concentrated, including many characterised by the strong presence of MSEs (Daniels, 2009, pp.266; Simms, 2010).

Nowadays, awareness of the extent to which the structure and organisation and control of work have become increasingly fragmented and fissured has resulted in the development of further union strategies to exploit the business needs of large employers through linking trade union representation and OSH in small enterprises with supply chain initiatives. In parallel and sometimes overlapping with these strategies, are others in which forms of 'community unionism' are the basis for attempts to organise otherwise unrepresented workers in hard to reach scenarios. Such strategies are increasingly proclaimed as 'ways forward' for trade unions by peak organisations in the labour movement such as the TUC. However, while there are good examples of unions adopting community unionism and sustainable sourcing strategies to extend representation and improve the conditions of precarious workers, including those of safety and health in MSEs, the resources of British unions remain invested primarily in servicing members and consolidating their position in their existing areas of strength. Labour relations writers argue that because the TUC is 'a voluntary and weakly organised federation of disparate sectional and producer interests' with limited control over its affiliates (Taylor, 2000, pp.13) it cannot ensure the strategies it advocates are implemented more widely. The decentralised and uncoordinated governance structures of the British union movement have traditionally allowed unions to pursue their sectional interests. Not surprisingly, therefore, when hard pressed trade unions with haemorrhaging membership take account of the significant time and resource costs of organising and improving the conditions of workers in MSEs, along with those of other hard to reach workers in precarious employment, they often seek to address more immediately beneficial targets. Substantial resources may be required to develop strategies likely to yield successful outcomes among the concentration of precarious workers in non-union industries, including MSEs where strong collectivist traditions are absent and where employers may be hostile to unions (COVE, 2008, pp.73). Devoting resources to workers in non-standard employment and in MSEs also invariably means fewer resources for permanent workers and existing members, which unions are obliged to service.

A further problem confronting trade union strategies that might help to improve the OSH conditions of workers in MSEs while addressing wider issues of pay and working conditions is that such improvement is not their main purpose. There is, therefore, usually no message carrier or 'OSH awareness raiser' in the schemes to implement these strategies, such as is the case in the initiatives involving TUPAs that we have previously described. As a result, the extent to which OSH is likely to feature in these initiatives depends to a large extent on workers' pre-existing collective concerns in relation to the OSH conditions they experience. It is debatable how much they can serve to stimulate or raise workers' collective awareness concerning the need to improve their OSH conditions. But this is a problem because, as many studies of workers in small firms show, they often share broadly the same attitudes to safety and health matters in their workplace as those held by their employers (see, for example, the review in EU-OSHA, 2016). That is, they are often unaware of the extent or seriousness of the risks of their work. In as far as they are aware of them, they



often both accept these risks as inevitable and ‘part of the job’, as well accepting a responsibility of doing whatever is necessary to work with them while at the same time meeting the productivity demands of their work. Moreover, these studies show that, to a large extent, workers condone the risk shifting practices used by their employers to ensure that they accept these responsibilities, both in relation to addressing the risk burden in their work and for injuries and ill-health that arise as a consequence of their failure to do so. Further studies of such responsabilisation have linked it to the de-collectivisation of workers’ voice and the atomisation and individualisation of the experience of work in modern economies (see, for example, Gray, 2009). In these circumstances, as we explained in Chapter 3, an important role of TUPAs is in countering this process of responsabilisation, making workers aware of the nature of the OSH risks they encounter, what could and should be done to address them and who is responsible for taking action to do so. Such awareness raising is often key to the sustainability of the impact of TUPAs, and it is far from clear how wider trade union initiatives, such as those taken to address the mobilisation of precarious and hard to reach workers, including those in MSEs, can provide for such sustainability in the absence of key change agents to help deliver such collective understandings.

These challenges are among those that help explain why British unions have not comprehensively devoted resources to new strategies for reaching out to workers in MSEs. And also why they have not highlighted the plight of these workers in terms of the poor safety and health outcomes experienced in these firms and the ways in which they are often held responsible for them. Of course, the paradox here is that a continued failure to do so is likely to be self-defeating for trade unions, since leaving workers in these situations without some form of collective consciousness and organisation is likely to lead to further growth of such situations. While allocating resources solely to members might allow a union to consolidate support among its membership base, this invariably inhibits its capacity to expand. The emergence of new non-union firms ultimately places pressure on unionised firms to reduce labour costs to remain competitive. Unions perceived as focusing too heavily on defending members’ interests, instead of extending gains to those without union representation, also undermine their legitimacy among non-members and the broader community.

Finally, this chapter concludes that, while there is considerable potential for trade union action and actors to play a role in improving OSH in MSEs, current practices fall some way short of realising this potential. Moreover, in the absence of significant funding and a legislative framework that provides trade unions with clear rights of representation, within which future strategies could be framed to help spread the successful small-scale initiatives we have seen, it is difficult to see how the potential of TUPAs to make a significant difference to the participation of workers in MSEs in improving the OSH conditions of their work, could be achieved on a substantial scale. Furthermore, while the wider strategies employed by trade unions to reach out to non-union and unorganised vulnerable workers, including those in MSEs, could, in theory, help play a role in improving the OSH conditions for many of these workers, current experience of these approaches suggests they too have some way to go to realise their potential to do this successfully or sustainably.



8 Discussion: Comparative findings on the determinants of success for TUPAs in five countries

8.1 Introduction

This chapter considers the features of schemes for TUPAs in Italy, Spain, Sweden and the UK that contribute to their success. It compares and contrasts their structures and operation and discusses what determines how they work in practice. The aim is to identify patterns in the arrangements, operation and support for TUPAs in the countries studied. To do so, it compares TUPAs' perceptions of their key activities, the support they receive and the effects they have on OSH in MSEs. It considers, comparatively, the institutional supports for their actions, such as the resourcing of the schemes of which they are part, time off to undertake functions and receive training, the provision of information, and rights to undertake inspections, investigations, make representations, respond to unsafe work situations and so on; as well as the contexts that shape them. A key further question the chapter seeks to address concerns the mode of action of TUPAs and how it can be understood in the contexts of the social and economic relations of OSH within MSEs. In particular, the chapter explores the extent to which TUPAs might offer significant supports for workers' safety and health in MSEs by helping to offset the pressures of risk shifting and responsabilisation faced by workers in these situations. In this respect, for example, as we indicated in the Introduction to this report, it is important to ask whether TUPAs behave in ways that can be understood as actions of worker representatives, or are they better understood as means of delivering OSH expertise, facilitated through the contribution of external trade unions and other partners to this process.

As our review of the relevant literature in Chapter 3 makes clear, it is also important to explain the contexts in which TUPAs are found and which help to shape them and their actions. There are several relevant elements to this discussion. Some are found in the national determinants of the existence of TUPAs, critically for example, whether they are a product of legislative requirements, voluntary joint arrangements or the result of some other means. Put another way, it is clearly important to understand the regulatory, labour relations and business contexts in which the actions of TUPAs occur. Assessing how these contexts influence TUPAs is necessary if their contribution to preventive practices is to be effectively understood and the possible implications this may have for future preventive policies targeting MSEs properly appreciated. It is clear from the preceding chapters that these contexts vary enormously, even within the few Member States of the EU we have studied. Therefore, this discussion will explore the significance of the effects of such variation, ranging from the embedded support for TUPAs found in Sweden to its seeming complete absence in Poland.

Finally, the chapter discusses the contribution made by the evidence of the present study in helping to situate the position of TUPAs relative to the analysis of current research on the effectiveness of support for OSH in MSEs in the EU. It considers the implications of this for the future development of national and European Union policies to support improved OSH arrangements for MSEs.

8.2 What works?

Survey evidence of patterns in OSH outcomes in MSEs is notoriously difficult to analyse effectively, as we showed in Chapter 3. Analysis of patterns in trailing indicators of outcomes, such as recorded work-related fatalities, injuries and ill-health, is hampered by limitations in the quality, reliability and detail of the available data. It is also extremely difficult to distinguish possible size-effects from those of other confounding variables. The impact of TUPAs on these outcomes is usually impossible to ascertain from such data. In this respect, approaches to evaluating the effectiveness of TUPAs are therefore no different from those informing the evaluation of most interventions on OSH in MSEs. Evidence of the effectiveness of these interventions is usually sought from measures of their impact on leading indicators, such as arrangements for OSH made in MSEs before and after particular interventions, including changes in OSH awareness and practices among workers and owner-managers. Such evidence is usually provided by owner-managers and workers themselves, as well as by observers of their actions, such as regulatory inspectors and OSH practitioners, and occasionally records of these actions. The data are often subjective and qualitative and subject to considerable limitations concerning their representativeness, reliability and generalisability. Nevertheless, as the previous four chapters suggest, in the case of TUPAs, this evidence, where it is available, points with



remarkable consistency across four countries, to a perception of the effectiveness of their interventions in supporting and sustaining improvements in OSH in MSEs. Chapter 6, for example, makes reference to the long history in Sweden of positive evaluations of the system of regional representatives, which continue to the present time. The actions of regional health and safety representatives and their outcomes are also often cited as examples of successful and effective interventions in wider research on OSH in MSEs, (see, for example, EU-OSHA, 2017b, 2018a). In Spain, as Chapter 5 makes clear, TUPAs report success in achieving marked improvements in approaches to OSH management in MSEs in many of the sectors, like construction and forestry, where they are active. In Italy, as discussed in Chapter 4, territorial health and safety representatives have been successful in achieving improvements in OSH in MSEs in co-ordinated actions in several localities and sectors, especially, for example, in construction and the craft sector. In the UK, although present day schemes have not been evaluated, the impression received from the trade unionists who participate in them is that they are successful interventions, while the evaluations of previous schemes both in the UK and elsewhere showed that participants believed them to lead to significant improvements in MSEs (see, for example, Walters, 2002). All these perceptions would appear to be entirely absent in the discourse surrounding OSH in small firms in the fifth country in our study, despite the long-standing potential for such a role conferred on the social inspectors in Poland.

8.2.1 Institutional support for TUPAs

This leads to questions concerning why TUPAs are effective and what sustains such effectiveness. Looking at the variety of schemes involving TUPAs in different sectors and regions of the four countries, what is perhaps most striking is not so much the differences between the various settings of TUPAs' activity which, given the different national contexts, are themselves unsurprising, but the evidence of threads in common running through the accounts of the engagement of TUPAs in OSH in MSEs. These common elements lead to some conclusions concerning 'what works'. The following discussion of what makes for effective TUPAs, distinguishes between institutional factors that contribute to their success and those that reflect qualities of engagement of TUPAs with workers and owner-managers in MSEs. The latter are discussed in a subsequent section. However, it is important to bear in mind that such institutional and individual factors are, in practice, interlinked and operate in tandem to determine the outcome of initiatives involving TUPAs.

Among institutional factors that contribute to success, the extent of financial support for the TUPAs schemes is a clearly important determinant. Schemes involving TUPAs in different countries require resourcing to cover the costs of the time of the TUPAs themselves, the provision of their training and information and the co-ordination of their actions. The schemes that are perceived as most successful are, in almost every case, those that are most adequately resourced. Conversely, the availability and continuity of such support for them is a strongly limiting factor on the development of schemes involving TUPAs and their capacity to influence OSH arrangements and outcomes in MSEs. In the four countries studied there is a considerable range of sources and forms of support, as indicated by Table 8.1, while no such support would appear to be contemplated in Poland.



Table 8.1: Support for TUPAs

Country	Type of support	Source	Cover	Extent
Italy	Financial	Bilateral bodies, ultimately employers' contributions. National fund controlled by INAIL but currently not operative	Salaries, visits, training, information	Basis of system and provided for by regulation and bilateral agreements, but applied very unevenly by region and territory
Spain	Financial	A range, including regional administrative authorities, insurance, employer contributions and trade union sources	Salaries, visits, training, information, co-ordination	Voluntary, bipartite or tripartite agreements, estimates suggest something like 45% of Spain's workforce is covered by regional TUPAs agreements
Sweden	Financial	State funding (55%) supplemented by trade unions	Salaries, visits, training, information, co-ordination	Regulatory requirements, cover is pretty much universal in workplaces where there is a trade union member, i.e. around two thirds of all MSEs
UK	None	Schemes supported by redistribution of existing resources for OSH representation, usually by agreement between unions and employers	Training, information, time off for visits to other workplaces, travel etc.	Limited to situations in which arrangements for representation already exist and extends them to achieve wider coverage
Poland	None	None	None	None

It is clear from the Table that, firstly, to be operational TUPAs schemes benefit from some kind of resourcing, even if it is provided through redistribution from elsewhere. As anticipated, such resourcing helps to pay for the time spent by TUPAs engaged in preventive activities in MSEs, and for the cost of the training and information that enables them to perform their tasks effectively. It also pays for other facilities they may require, such as office accommodation and transport to the sites of their activities. In every case, the more substantial schemes are in their coverage, then the greater are likely to be their demands on resourcing. In the cases where the resources for them are provided by redistribution from elsewhere, such as in the UK, as is clear from the accounts in Chapter 7, such arrangements are limited to particular sub-sectors and localities where they are made possible usually through local collective agreements with larger employers or unilateral actions by trade unions. In these situations, there is no possibility for their more widespread expansion. Similarly, where TUPAs are the result of time limited interventions where, for example, a programme is funded for a limited period or by a fixed amount, in most cases, once this has been used up, the initiative has been discontinued. Sustainability of resourcing is, therefore, a major factor influencing the development and operation of such schemes and there are no instances of them being self-sustaining except on a very limited scale. As some of the experiences in Spain illustrate, it is possible for voluntary initiatives to achieve stability in their financing thanks to multi-year agreements and their semi-automatic renewal, but there is also a link between regulatory provision for TUPAs and the provision of resources, as is seen in both Italy and Sweden. This is an important consideration with policy implications concerning, for example, sources of funding for such schemes, and what they actually represent in terms of real costs, to which we will return later. However, for the time being, it is important to emphasise that one of the essential messages that emerges from past and present analysis of TUPAs schemes is that adequate resourcing is a significant determinant of 'what works' in terms of effective TUPAs' actions.

The second element of support that has proved to be essential in the promulgation of arrangements for TUPAs in all the countries we have studied is the commitment of the trade unions concerned to actively promote and support the development of the role of TUPAs in their policies and practices. It would appear from the examples detailed in previous chapters that there is considerable variation in the extent and ways in which this is done. In some cases, especially where there is support from wider regulatory measures, TUPAs appear to have become embedded in the approaches taken by trade unions towards their role in OSH. In Sweden, for example, the regulatory requirements for regional health and safety representatives are of long-standing and supported by both blue and white-collar unions. Chapter 6 reports the presence of a



structured and mostly standardised manner of operation. Workplaces are selected based on the union's regional safety representative plan and prior knowledge of workplaces. When conducting visits, the TUPAs present themselves, their task and the purpose of the visit to managers, usually check documents, inspect the premises and talk with workers (and their safety representatives if there are any), before ending a visit by discussing their observations and proposed improvements with managers and filing an activity report which details those problems and required improvements. Patterns were more varied in other countries depending on circumstances, but these routines were more or less recognisable in Italy, Spain and the UK too.

A third and related element in common in the majority of the successful schemes described in the previous chapters is that they are supported by some degree of institutional co-operation. Successful TUPAs schemes, regardless of whether they have a voluntary or regulatory basis, are far more commonly the result of institutional cooperation between trade unions, employers and sometimes other public actors, than they are a reflection of embedded conflict between these bodies. In Italy, the creation of a network of bilateral bodies at both regional and territorial levels, through which TUPAs' actions are both resourced and co-ordinated, involves co-operation between trade unions, employers' organisations, including those representing small businesses, as well as, to varying degrees, the engagement of public authorities, practitioner bodies and other agencies.

Even in the UK, the current local schemes described in Chapter 7 involve some level of agreement between trade unions and employers supporting the peripatetic activities of TUPAs, while past schemes, such as the WSA scheme, covering a variety of sectors, and the roving trade union representatives specifically related to agriculture, were strongly supported at the institutional level by both employers' organisations and the public authorities. One feature of this support evident in a number of the schemes currently operating in Spain, Italy and previously the UK, is joint actions involving both TUPAs and preventive agents that have been appointed by employers, working closely together and even sharing visits to MSEs between them. TUPAs in these schemes often indicated that such joint actions were a significant element in winning trust and co-operation from owner-managers in MSEs. However, they were not a determining feature of the success of all of the TUPAs' initiatives described in previous chapters, and the majority of such initiatives involved TUPAs acting independently of employer appointed agents, even where both were part of a jointly supported scheme.

Therefore, while it is undoubtedly in many cases a helpful feature of schemes involving TUPAs, such institutional co-operation is not always a determining factor for their success. There is evidence in a number of countries that these approaches can also be successful when they are the result of unilateral labour relations strategies of trade unions to represent the needs of workers in MSEs. As we will explore further in the following section concerning the mode of action of TUPAs, one of the significant issues in understanding the challenges for TUPAs in relation to helping to protect and improve the OSH of workers in MSEs is the mix of representative, co-operative and advisory actions and roles that their position calls for. Which of these roles is adopted is largely informed by the contexts in which the TUPAs operate. In the situation of the TUPA in Prato in Italy that is discussed in Chapter 4, for example, she perceived that the requirement of her role emphasised supporting disadvantaged workers in MSEs in her territory who faced considerable exploitation and abuse of their legal rights from the owner-managers of these firms. Co-operation with employers' organisations and with owner-managers in these situations was not judged to be an option that would produce useful support for these workers. Instead, the considerable challenges of protecting their interests had led to the adoption of a more conflict-based trade union role that focused on mobilising and organising workers, as well as working with regulatory enforcement agencies, to achieve a degree of collective protection for workers in this situation. Similar approaches are discussed in Chapter 7 on the UK, indicating, for example, how local trade union officials have co-operated with community organisations to support vulnerable workers in hotels and restaurants, as well as those employed in cleaning, to better organise to address the challenges of exploitation and its OSH consequences that these workers also faced. Other examples of this approach were also found in Spain and Sweden. The approaches adopted, therefore, reflect the range of strategies used by trade unions and their health and safety representatives and the variety of exigencies in the labour relations contexts in which their actions are embedded (see, for example, Walters and Frick, 2000).

Further related to institutional co-operation is the sector-based orientation of many of the schemes discussed in previous chapters. This provides a fourth feature in common among the successful initiatives



described previously, since many of them are sector-based. Here, what is most evident concerns the specificity of solutions for OSH in MSEs. As we highlighted in Chapter 3, wider research on successful interventions on OSH in MSEs points to the importance of owner-managers and their workers perceiving the relevance of interventions to their specific needs and the perception that those making the intervention have experience and understanding of these needs. Thus, situation-specific solutions are more likely to be perceived as being appropriate and effective than more generic ones. There are many examples of the recorded successes of TUPAs presented in the previous chapters that illustrate this point. They may be actions that have led to improvements in management practices in relation to traditional risks, such as accidents, noise, chemicals and widespread MSD-risks, specific to particular sectors. Or, as the examples from Sweden show, they might involve regional health and safety representatives from the hospitality workers' unions supporting immigrant female hotel-cleaners who are afraid to complain to managers of having too many rooms to clean, which results in very high musculoskeletal workloads; or the psycho-social risks arising from the organisational and social work environment which are the subject of more than half of the workplace visits of white-collar unions' regional representatives, such as those for school teachers, addressing high levels of work-related stress, high workloads and unlimited work among other white-collar workers too.

It is also the case, of course, that much of the bipartite or tripartite institutional infrastructure supporting TUPAs is sector-based. This further ensures that sector-based approaches are probably more common and more likely to be supported with appropriate resourcing and contacts than other types of TUPA initiatives. Equally, however, the local basis of these initiatives is important for similar reasons of proximity and know-how. Locally based TUPAs are far more likely to understand the social and economic position of workers and their employers in the local economy and to recognise the influences that can be brought to bear on improving OSH in these situations than are agents with less familiarity with local affairs. For example, in most of the countries studied, together with the regional or territorial structures that support them, TUPAs are able to develop a strong sense of the profile of MSEs in the area they cover, and from this they are able to plan visits with some degree of systematicity and keep records of progress made in the locality. In the forests of Castilla y León in Spain, for example, as Chapter 5 describes, although work sites were very difficult to find, map and visit because of their remoteness, following the support of a collective agreement, a visiting program was established and it succeeded in expanding to cover all workplaces with an annual visit. TUPAs are now well known and well received by crew leaders and by workers, and the contracted MSEs cooperate with them. In Italy, in Veneto, for example, local development of an infrastructure for the support of the actions of territorial representatives allowed companies to consult RLSTs and for the latter to respond to their needs. Local networks had also been established with the aim of developing monitoring and research activities in collaboration with universities, and of coordinating the activities of RLSTs and the local OSH offices, defining strategies for prevention at all these levels. Participants noted that they helped *'provide a neighbourhood support structure for workers and companies'*.

The other obvious institutional feature contributing to the success of programmes involving TUPAs to which we have already alluded is the role of regulation in their support. The present research confirms findings of previous studies in this respect (see for example, Frick and Walters, 1998; Walters, 2002, 2004b). Where regulatory provision has been made for the appointment and functions of TUPAs, such as is especially the case in Sweden, but also in Italy, it is far more likely to result in both successful and sustainable interventions than is the case where such interventions are the result of voluntary initiatives. Even in countries like the UK, where regulation is very limited and highly specific, as Chapter 7 makes clear, its beneficiaries regard it as an essential support to their operation. There are a number of reasons why regulation is important, all of which have been extensively argued in previous publications.⁶⁸ Firstly, regulation bestows rights and responsibilities on its beneficiaries, as well as requirements upon duty holders. These act to provide a steer to trade unions and employers' organisations as to what can be expected from the structure, organisation and operation of TUPAs schemes and indicate what is required of owner-managers in MSEs to allow TUPAs access to their workers and to cooperate with them to improve OSH arrangements. They also, of course, provide TUPAs with a set of functions to conduct and some guidance on the parameters within which these functions can be expected to operate, as well as an understanding of what is anticipated from the TUPAs themselves in the delivery of their functions. Of course, the power of regulation to ensure any of this happens

⁶⁸ These include, not only Frick and Walters, 1998, and Walters, 2002, 2004b, but also Walters, 2006, and most recently EU-OSHA, 2016, 2018b. In addition, various studies of the supports for the actions of health and safety representatives more generally, confirm the importance of a regulatory steer, especially in relation to representation in smaller firms).



is far from absolute, but such requirements have nevertheless been shown in previous studies to be an important influence on practice. This was also true in Sweden and in Italy in the present study.

For example, in Sweden it is quite clear that the regulatory provisions provide the framework for the extensive development of the system of regional health and safety representatives that is seen there more than anywhere else in the world. In Sweden, the regional safety representatives are the main actors promoting OSH in MSEs, making 55-60,000 visits to these enterprises annually. There are different forms of regional representative, according to sector and union policies and resources; thus in Transport they are full-time, whereas elsewhere they are part-time. Sometimes they are experienced local representatives, often chief safety representatives, who perform a regional role in addition to being a representative in a large enterprise. But the majority are union officers who are also RSRs on a part-time basis (though this is sometimes close to full-time), due to the shortage of both funding and experienced local representatives. Moreover, it is clear that the representatives and the owner-managers of most MSEs are at least to some extent aware of these provisions and the basic rights they confer upon the representatives. It would also appear that in many instances regional representatives act in leadership roles in participative approaches to OSH in MSEs, and to some extent the legislative provisions help facilitate this. For example, although both local safety representatives and regional representatives have rights to stop dangerous work in Sweden, it is noted in Chapter 6 that when such action was required, local representatives in small enterprises often preferred regional representatives to undertake it rather than doing it themselves. And the regional representatives generally appear to have done so without fear of retribution and say that nearly all work-stops are quickly resolved with management without calling in the labour inspectorate.

In Italy the picture was more mixed and dependence on bi-partite and tripartite arrangements was important regardless of the legislative provisions. The former arrangements meant that there was considerable variation in the ways in which the legislative requirements were operationalised in practice and there does not seem to have been any role for the regulatory authorities in determining or enforcing this. However, here too the regulatory framework provided a baseline and where co-operative arrangements were not adequate or present, representatives were still able to operate with the legislative requirements and union organising strategies to achieve protections for vulnerable workers in MSEs, as the case in Prato illustrated.

More significantly perhaps, regulatory requirements convey a general message, not only to their subjects but more widely, concerning societal expectations. This is, in itself, an important contextual influence supporting the confidence of TUPAs concerning their legitimacy, and awareness of them and their role by workers, employers and other parties with an interest in MSEs. More specifically, regulation is a means with which to provide a platform of rights and functions on matters such access to workers in MSEs, co-operation from owner-managers in investigations, provision of information, training and support for TUPAs, and so on which helps give TUPAs an authoritative and objective baseline for their operation, making it easier to achieve common standards in this respect across a wide range of workplaces and work situations. Finally, as we have already mentioned, regulation also facilitates the development of TUPAs schemes by stimulating their funding and institutional support, as is evident from the descriptions of the arrangements in both Italy and Sweden. At the same time, the presence of regulatory requirements on the statute book contributes to ensuring the continuation of institutional support for TUPAs by embedding them more generally in prevention systems and creating public expectation concerning their sustainability. At the same time, the inclusion of regulatory provisions concerning the appointment and activities of TUPAs in legislation on OSH and labour relations, signals that the national discourse on the involvement of TUPAs in preventive OSH for MSEs has already progressed to a fairly advanced stage. While measures may remain the subject of political dispute, their inclusion in regulation in some countries implies the presence of a far greater degree of institutionalisation, acceptance and consequent continuity in these national settings than is the case in countries in which such provisions do not exist.

In short, therefore, the previous four chapters provide a rich account of the operation of institutional supports for TUPAs in four EU countries. They demonstrate the importance of a regulatory steer, engagement of trade unions and employers' organisations, the support of other actors with an interest in OSH, such as regulatory inspectors and OSH practitioners, as well as the importance of ensuring that TUPAs themselves are well trained and competent to undertake the tasks with which they are charged. Although we have only studied these supports in relation to a variety of schemes involving TUPAs in four EU Member States, there is sufficient consistency in our findings to predict that the same type of support would be necessary in any



Member State in which such schemes were expected to have a significant impact on preventive OSH in relation to MSEs.

It is, therefore, of some concern that in the fifth country that was included in the study, researchers were unable to find any evidence of such support. Although micro and small firms are a strong presence in the Polish economy and there is some acknowledgement that safety and health in these firms is at least as problematic in Poland as it is elsewhere in the EU, as we discussed in Chapter 3, there appears to be no appetite for a regulatory framework that provides TUPAs with any role in prevention initiatives in relation to them.

Unionisation in Poland is comparatively low (and has been falling continuously since 1989), this would seem to have rather marginalised the presence and significance of the social inspectors, that in theory have functions similar to health and safety representatives elsewhere, in strategies to ameliorate working conditions overall. While the social inspection system has quite advanced features which, in theory, could be adapted to extend the influence of TUPAs to protect workers in MSEs, nothing in our findings indicates that this has occurred. A combination of falling union density, neo-liberal economic policies and a weak trade union position politically, seems to have resulted in such a potential being overlooked both in the discourse on the reform of labour relations and that on improving OSH. Indeed, since the demise of the planned economy and accession to the EU, far from resulting in extending the role of social labour inspection, increasing neo-liberal political and economic policies have resulted in pressures to remove the requirements for them from the statute book. National contexts help determine the level of institutional support for TUPAs among Member States in the EU, and there is clearly a spectrum of different levels of such support that are dependent on context. While countries like Sweden illustrate the extent of its potential, at one end of this spectrum, the example of Poland suggests that, at the opposite end of this spectrum, the possibilities of institutional support are very limited indeed. Exploring how far the Polish experience is repeated in other EU Member States was beyond the remit of the present study. However, contemporary accounts of the role of trade unions in industrial relations in Eastern Europe point to strong similarities between the Polish approach and that found in other, so called, Visegrád states like Hungary, the Czech Republic and Slovakia (see, for example, Bernaciak, 2017). This suggests that contextual barriers to the development of institutional support for TUPAs may not be limited to the Polish experience alone.

Finally, on institutional support for TUPAs, readers who are familiar with research concerning this form of support for worker representation on OSH more generally, will have recognised the similarity between findings on institutional support required for effective actions on the part of TUPAs and those that other research has shown to be necessary for the effective action of workplace representation on OSH more generally. However, one key difference is that both TUPAs and the institutional support they receive, are based outside the enterprises on which they hope to achieve an effect. Therefore, key assumptions concerning the role of worker/trade union organisation and support from inside the workplace — which are often among the most critical factors affecting successful outcomes for worker representation in larger organisations (see, for example, the conclusions of a review of a host of previous studies in EU-OSHA, 2017c) — do not apply in the same way to the actions of TUPAs. The consequences of this for the mode of action of TUPAs are explored in the following sub-section.

8.2.2 What works — TUPAs' modes of action in MSEs

Turning to the actions of TUPAs within MSEs, there are a number of parallels between the various schemes described in the previous chapters, in which the effectiveness of the direct influence of TUPAs on OSH in MSEs is evident and from which further details of the picture of 'what works' in terms of effective actions on OSH in relation to MSEs emerges. For example, in Sweden regional health and safety representatives are expected by law to engage with workers and owner-managers in MSEs in several different but complementary ways. As Chapter 6 indicates, the law stipulates three tasks: to minimize work risks; to support local OSH management arrangements; and to promote worker participation in these measures. Annual reports on their activities confirm that this is what they do, thereby acting as 'workers' voice' in three respects: using their knowledge, skills and experiences to address the risks workers face; relocating the main burden of responsibility for preventing harm from workers back to the owner-managers who are legally responsible for managing the risks; and improving local dialogue on OSH by appointing, training and supporting safety representatives. In Italy, RLSTs reported that they normally walked around the workplace with the owner-manager or OSH manager, to help them understand the most important problems and



propose solutions, and afterwards produced a written account of their findings focused on suggesting improvement actions. Usually, they paid attention to fairly straightforward and visible OSH arrangements, and their account was used as a way to influence the site's prevention system and cooperate with employers and OSH management. At the same time, however, they consulted with the workers in the MSEs and responded to their requests and concerns, as well as investigating the issues they raised. In Spain, although there was much variation in practice, similar routines were also easily identifiable among the more successful schemes. That is, TUPAs visited worksites and, having first introduced themselves to the responsible manager, they examined the entire worksite, usually with the manager or supervisor, identifying and documenting risks and suggesting improvements, usually focusing on proposing simple solutions. They also usually verified their understandings by talking to the workers before making their documented recommendations. In addition, it was recognized that the establishment of legitimacy and authority for the TUPAs was an important support for the success of their actions; something that was important in all the countries studied. Its achievement was in part a result of the institutional support for TUPAs that we have described in the previous section, but it was also the consequence of the experience, personal qualities and training of the TUPAs themselves. As each of the national chapters demonstrate in their different ways, successful TUPAs were almost always skilled, knowledgeable trade union representatives with a clear understanding of the technical, legal and advocacy elements of their tasks, and possessed of the diplomatic skill to engage MSE owner-managers in a dialogue, as well as good judges of the appropriate balance of these elements in their relations with owner-managers and workers.

What is perhaps most striking about these findings is that, apart from the external nature of the role of TUPAs, and the challenges this presents, the personal qualities and experience, as well as the need for good quality information and training, that all influence their effectiveness, are not significantly different from what research has demonstrated to be among the features of successful health and safety representatives generally. For example, Hall et al. (2006, 2016), based on both qualitative and quantitative field research in Canada, discuss the role as one of 'knowledge activism' in which effective health and safety representatives adopt and adapt a mix of political, legal and technical knowledge to be able to engage in dialogue on OSH with employers and managers in ways that have some chance of influencing outcomes. Based on their mainly European studies, Walters and Frick (2000) argued that representatives selected from a spectrum of communication strategies, ranging from conflictual approaches to those relying on consensus, to engage effectively with employers and managers. They further argued that, as with the findings of the present study, the labour relations contexts in which representatives operated determined where on this spectrum the selection was made. These points are re-confirmed in the major European study of the role and actions of worker OSH representatives in a follow-up to the ESENER-2 project commissioned by EU-OSHA (2017c). In their studies of worker representation on OSH in mining globally, Walters et al. (2016a, 2016b, 2016c, 2018), also show that successful strategies of miners' OSH representatives to bring about improved OSH conditions involved a sound understanding of their own legal entitlements, along with an equally good understanding of those addressing the OSH issues they wish to improve. Effective representatives positioned this understanding and OSH dialogue with mine management in ways that could not be confused with negotiations addressing wider terms and conditions of employment in mining in order to successfully overcome the embedded hostility of powerful mining companies to both their presence and their actions. To be able to function effectively, in all these cases, the research shows that, as with TUPAs, the representatives needed to be well-informed, well-trained, and experienced, but also to possess strong personal qualities of confidence, commitment and resourcefulness in overcoming the substantial challenges they faced.

These common findings on what makes trade union representatives effective prevention agents, regardless of whether they are based outside or inside enterprises, are important for several reasons. Firstly, of course, they indicate that these prevention agents use more than just technical skills and knowledge to be effective. They suggest that their additional resources include competencies acquired as trade union representatives, that are especially useful. Secondly, they show that it is precisely because of their background and training as trade union representatives, that they act in participative ways that help to increase awareness of OSH issues on the part of both owner-managers and workers. Thirdly, they indicate that they have well-thought through strategies for doing so in ways that will help improve the OSH experiences of the workers on whose behalf they act.

While these features have been repeatedly shown to be critical to the success of the knowledge activism of trade union OSH representatives generally, they are especially important in the particular circumstances of OSH in MSEs. As we indicated in Chapter 3, a significant potential in the use of TUPAs in relation to MSEs is



found in the way that their interventions can also help to reduce practices of risk shifting that are well established means with which owner-managers deal with OSH issues in MSEs and which result in workers having to cope with these risks as though they were solely their own responsibility. Research suggests such practices are often prevalent in MSEs in which a multifaceted absence of resources, combined with pressures arising from the organization of work and the relations of production, mean that workers are frequently unable to take measures that would address these risks adequately and therefore this risk shifting and responsabilisation has the overall effect of increasing their burden of risk (EU-OSHA, 2018a, 2018b). We suggested in Chapter 3 that TUPAs are particularly well suited to ameliorating this process. This is not only because their trade union background means they are likely to have a particular focus on workers' needs, but also because they are well-informed concerning regulatory responsibilities and the requirements of OSH management, and are trained in the techniques of representation. As a result, they are therefore in a position to make representations to owner-managers concerning workers' needs and at the same time to help to build a more participative culture for risk management within the MSE. As the last four chapters clearly demonstrate, there is ample evidence to support this understanding of their role in all four of the countries we have studied.

These observations are also especially important because they are congruent with the findings of wider research concerning 'what works' in relation to OSH interventions in small firms. This work has repeatedly demonstrated the important role played by face-to-face contact between (usually) owner-managers in small and micro firms and change agents or intermediaries that deliver OSH messages to them in ways that engage their attention and persuade them of the benefits of taking action to improve the arrangements they have made for OSH in their enterprise (see, for example, the review of this research in EU-OSHA, 2016). Regardless of whether the change agents are regulatory inspectors, OSH practitioners, consultants or even intermediaries with a more distant relation to OSH, such as public health inspectors, sales representatives or tax inspectors, it is their visits to workplaces and face-to-face contact with owner-managers that have been shown to be critical in extending influence on owner-managers. This is because this contact allows them to transfer (often quite simple) OSH messages to owner-managers in ways that register with the latter far more effectively than through arms' length delivery strategies such as internet portals or paper-based tool-kits. TUPAs function in the same way, with the added bonus that, unlike most other intermediaries, there are both knowledgeable and skilled in OSH, and their particular feature is that, unlike other intermediaries, *they are there to represent the interests of workers* in achieving better arrangements for OSH.

The cases presented in the previous four chapters, therefore, demonstrate the potential of TUPAs to act effectively in improving OSH arrangements and outcomes in MSEs, and help to explain the mechanisms with which they do so, both in terms of the institutional support they receive, and the qualities of their personal engagement that contribute to their effectiveness. Confirmation of this potential in the present study, begs questions concerning the role of TUPAs in wider strategies that seek means to achieve improvement in OSH in MSEs. It is to this role that we turn in the following section of this chapter.

8.3 The role of TUPAs in prevention strategies for OSH in MSEs

Within the EU, there are European and national level policies concerned with the role of MSEs in the economy. For several decades there has been a tension observed in these policies, between those driven by neo-liberal orthodoxies and those addressing social protection, including the protection of labour. This is manifest, for example, between policies with the aim of promoting more 'business friendly' forms of regulation and regulatory inspection, believed to encourage business success among MSEs, and those that seek to achieve improved OSH outcomes through compliance with strict legal standards of worker protection. Both are often the responsibility of the same governance to deliver and (in the case of the latter) to enforce.

At the level of the EU, there are a range of recent policy statements that recognise both the importance of protecting workers' safety and the challenges of doing so in MSEs.⁶⁹ Recent research on OSH in MSEs has

⁶⁹ The most recent major policy developments at the EU level in which safety and health in small firms is explicitly addressed can be found in the:

- EU Strategic Framework on Health and Safety at Work 2014-2020;
- Establishment of the European Pillar of Social Rights, adopted in June 2017 and signed at the summit in Gothenburg in November 2017; and



reported signs of acknowledgement of the specific needs of MSEs in several key regulatory initiatives (EU-OSHA, 2018a). As we outlined in Chapter 3, the same research has pointed to the problem of transfer and sustainability of interventions to improve OSH in MSEs and for the need for more effective co-ordinated strategies of support for OSH in MSEs to overcome this challenge. All this suggests that now is an opportune time to review the elements of current knowledge on ‘what works’ for OSH in MSEs and ensure such knowledge is turned to good advantage. The positive findings reported in the present research concerning the role of TUPAs in initiatives to promote improved OSH arrangements and outcomes in MSEs, therefore, prompt some consideration of their possible role in such strategies. At the same time, as the present report has also made clear, the unmistakable *leitmotif* of modern economies in the EU concerns the scale and pace of change in the structure, organisation and control of work, in which MSEs play a significant part. This leads to some further reflection concerning the implications of such change for TUPAs and related trade union efforts to contribute to improved OSH arrangements and outcomes in MSEs. The following subsections consider both these issues in turn and what the present research suggests concerning the role of TUPAs in relation to each of them.

8.3.1 TUPAs and national strategies to support OSH in MSEs

MSEs are regarded as of central concern in the national OSH policies and plans of the majority of Member States and by the EU itself. In general, such policies and plans make reference to the need to take account of the challenges of securing safe and healthy work environments in these firms and doing so by paying particular attention to the needs of owner-managers and their workers to enable them to achieve this. In Chapter 3, it was suggested that the means with which national authorities go about this involve increasing use of regulatory approaches that depart from traditional command and control inspection strategies. While they generally acknowledge the significance of research findings highlighting the important role of face-to-face contact with inspectors, these additional approaches adopt a variety of further strategies designed to reach ‘hard-to-reach’ MSEs. Such strategies include, for example, paying greater attention to stimulation and promotional activities that aim to increase reach and ‘buy-in’ from both MSEs and the organisations that may represent them, with greater focus on advice and guidance, and on cascading messages to MSE duty-holders and sub-contractors. The combination of their sheer numbers and the low profile they have with regulatory agencies, means they simply cannot be adequately reached with normal face-to-face inspections. In some cases, these approaches are consciously combined with the use of intermediary organisations and actors that have the capacity to transfer OSH knowledge and methods to MSEs and, as detailed in Chapter 3, when these methods have been combined with strategic co-ordination to achieve maximum effect, recent research suggests they are among the most successful and sustainable ways of extending influence on OSH to MSEs (see EU-OSHA, 2018a).

Chapter 3 further pointed out that trade unions are among the intermediary organisations that are relatively well-placed to contribute to this. Previous studies provide some evidence that they are active in a variety of ways in supporting workers’ safety and health in smaller firms. It showed that their use of TUPAs was one of the ways in which they had already done so in the countries included in the present study (see, for example, Walters, 2002). This study has confirmed this to be the case and shown that schemes involving TUPAs in Italy, Spain, Sweden and the UK continue to provide support to workers in MSEs, as well as to those in small workplaces, such as shops or schools, that are part of larger organisations but which function semi-autonomously and with little of the resources available for OSH management in more centralised, larger organisations. It further confirms the success of the influence of these social agents on OSH in MSEs and establishes that, like their predecessors, current TUPAs schemes display several of the features that research on OSH in MSEs concludes to be important in influencing ‘what works, for whom and in which contexts’ in the deployment of strategies and tools for OSH improvements in MSEs.

This suggests a strong potential for the role of TUPAs in wider co-ordinated strategies to support OSH in MSEs, such as those envisaged by the current regulatory thinking discussed above and in Chapter 3, and which recent research suggests to be the most successful of the range of interventions designed for this

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- Communication of the EC in January 2017 on the Modernisation of EU Occupational Safety and Health Legislation and Policy.

This triumvirate emphasizes the importance of worker protection in MSEs, as well as the significance of Member States’ responsibilities in this respect. Although the importance of support for business success features in all these policy statements, their parallel emphasis on worker protection and enforcement responsibilities signals something of a departure from previous texts with a more neo-liberal orientation.



purpose. However, with the possible exception of the Swedish arrangements for regional health and safety representatives, the present research also indicates that the current scale of operation of schemes studied in other countries falls a long way short of delivering this potential. While in Italy and Spain there are numerous initiatives involving TUPAs, supported by regulation and/or by collective agreements across a range of sectors and locations, and they can be judged to be more or less successful in delivering the support for which they are intended, the scale of their development since they were previously studied nearly 20 years ago suggests relatively slow and uneven progress has been made with their uptake and transfer more widely. It is also evident that TUPAs are most effective when they have both the policy and practical support of other institutional actors, such as employers' organisations, the public authorities and OSH practitioners, as has been shown to be the case in Italy and Spain. But despite the willingness of such actors and institutions to provide this support, many of the schemes do not extend much beyond the confines limited both by sector and locality.

The present research has been unable to fully establish the reasons that explain the relatively limited and slow growth of these schemes. It is clear they are best supported when they are included in provisions of the regulatory framework and where they are a strong and established element of the mission of trade unions generally, such as in Sweden. But even here, as Chapter 6 makes plain, employers' organisations have escalated their public pronouncements of a political hostility to regional health and safety representatives in recent years, with mounting criticism concerning the motives and integrity of the representatives and their trade unions, along with demands for the repeal of the regulatory provisions, demands which opposition political parties have threatened to implement should they be in government in the near future. Generally, such schemes have often been viewed with a degree of suspicion by institutional actors in other countries too, where they have been regarded as underhand means for trade unions to recruit new members and spread their influence on labour relations.

Of course, a major issue for the growth, transfer and sustainability of TUPAs concerns the resourcing of schemes to support them. An undoubted reason for the initial success and spread of the Swedish arrangements was that they were largely resourced from a Work Environment Fund that was contributed to by taxes collected from employers. And although this Fund no longer exists, a substantial part of the costs of the scheme has been borne by the state, with trade unions also contributing an increasingly significant proportion. Chapters 4 to 7 have shown that schemes in other countries are funded in a variety of different ways – from regional funds, contributions from participant organisations, funds transferred from non-profit making social and employment insurance schemes and so on. In all cases, there are significant costs associated with the schemes, even if they can be shown to be negligible in terms of the savings to the public purse as well as to employers, that are made through the contributions TUPAs make towards the prevention of injuries and ill-health in MSEs. The problem with this, however, is that while the former costs are borne directly by the organisers and/or supporters of the TUPAs schemes and are usually visible and known to all, the latter represent more indirect savings to the public purse or beneficiaries, the magnitude of which requires calculation and is frequently debated. The result of this has been a general unwillingness of potential funders to make significant long-term commitments to supporting such schemes. This makes them difficult to both start and sustain, with uncertainty often surrounding the continued existence of even the most successful of schemes. This presents huge challenges to the development of their undoubted potential to play a significant role in wider co-ordinated strategies to support OSH in MSEs.

A further limiting factor concerns the attitudes of trade unions themselves to these schemes. As indicated in the Introduction and Chapter 3, trade unions in most EU Member States have been suffering haemorrhaging membership for some time and are naturally concerned with recruiting new members and with organising strategies to do so. However, contrary to the fears expressed by employers' organisations and the like, their priorities for doing so seldom involve targeting workers in micro and small firms because the returns for the investment of their scarce resources are not sufficiently rewarding. Instead, they tend to target their traditional sources of membership in larger organisations with these strategies, where the rewards for success are likely to be numerically greater. As we have discussed in previous chapters and will revisit in the following sub-section, although there are some indications of changing approaches taken by unions to mobilising groups of workers in non-traditional forms of employment, while some of these workers may be employed in micro and small firms, and while unions may use poor OSH conditions as a mobilising strategy to organise workers, these are not the primary target of such strategies and generally TUPAs are not involved in such activity. So, while trade unions may wish to help unorganised workers in MSEs improve their



work environment and OSH outcomes, investment of their scarce resources in doing so is unlikely to be a top priority for most union strategists.

8.3.2 The impact of change and the responses to it

This report has made it clear that changes in the ways in which work is structured, controlled and organised are evident in all the countries studied. Equally evident in these economies, is the speed of such change, which is widely agreed to be historically unprecedented. Here is not the place to rehearse the reasons for this, but it is important to acknowledge that such change has implications for the practice and perceived outcomes of TUPAs schemes and, as the accounts in previous chapters make clear, such effects are much in evidence.

In particular, challenges for the approaches of TUPAs include, for example, the ‘upstream effects’ of economic/business relations and how to respond to the acknowledged shift away from traditional bilateral employment relations to more complex influences of third party interests that are a prominent feature of the experience of work in many MSEs. Similarly, there are challenges for TUPAs presented by the increasing presence of so-called fissured workplaces and the increased fragmentation of managerial control, particularly in multi-employer worksites in which MSEs are especially prominent in the lower tiers of the relations of supply. There are further challenges presented by precarious, insecure and casualised work arrangements and by the unorganised workers that increasingly dominate employment in these situations. By no means all of these situations are the preserve of MSEs, and quite large organisations are also often involved, but they are part of the same changing work scenarios in which hard-to-reach MSEs have a strong presence and which are increasingly acknowledged to present problems for the effectiveness of conventional regulatory strategies, as well as those of organised labour, to protect decent working conditions and the safety and health of the workers involved.

Even where TUPAs systems are quite extensive, their supports and conventional modes of action are challenged by such changes, as the experiences in Sweden described in Chapter 6 make clear. While in other national situations where there are no (or only very limited) TUPAs systems in place, these developments may act as formidable barriers to their establishment and influence. Previous chapters have touched on how other forms of trade union action aimed at supporting workers’ interests have sometimes been adopted to address these situations. For example, some trade unions have the capacity to exert influence on major high-profile economic actors higher up supply chains, to support better working conditions in the MSEs at their ends, or through alliances between themselves and community groups to help raise collective awareness and mobilise actions among migrant or other disadvantaged groups. In previous chapters, some examples of successful trade union initiatives to improve working conditions in such scenarios, where workers in MSEs are hard to reach with conventional trade union actions, including arrangements for TUPAs, have been presented. There are many questions concerning the nature and determinants of such actions and the labour relations and business contexts in which they might be effective; as there are concerning the extent and capacity of trade unions to act effectively in such situations. There are also questions concerning their relationship with more conventional approaches, such as those involving TUPAs.

The extent to which these departures from traditional union organising strategies represent evidence of a wider or more varied role for trade unions as intermediary actors in supporting intervention processes in MSEs is also important to consider, especially in the light of developing regulatory strategies to address the same scenarios. It is clear from reports of official inquiries into these emergent scenarios, as well as from the recent research literature and policy pronouncements in some Member States and at the level of the EU, that there is a growing awareness on the part of the state of the need to adapt the conventional approaches of governance and regulation of work and employment to meet the challenges of these situations.

As recent policy pronouncements at these levels suggest, there is a growing recognition of some of the unacceptable consequences of economic liberalisation for the conditions of work and employment for many workers. The importance of this for trade union approaches to OSH in MSEs is clear. If, as suggested in the previous sub-section, trade unions have a significant role to play in the co-ordinated actions to support OSH in MSEs that recent research has found to be effective, then it follows that there may also be opportunities for them to participate in representing the interests of workers in the development of wider approaches to



the reform of governance and regulation also intended to improve working conditions in these and other work situations in which workers are vulnerable. Although there are few explicit references in national inquiries to TUPAs schemes as possible solutions in these scenarios, the present research suggests there are some indications that this may be the case in at least some of the countries studied. In Sweden, for example, as reported in Chapter 6, a recent public inquiry (SOU, 2017) analysing structural and organisational changes arising from outsourcing, self-employment, supply chain pressures, temporary employment, hired labour, self-employment, and so on, also looked at the RSRs right of entry in the changing labour market. It proposed extensions to these rights, allowing unions to appoint RSRs for workplaces without members but covered by collective agreements, which would have the effect of extending union entry rights in many industries.

But the study also shows that these are developments that are still a long way from becoming part of either state or trade union approaches to supporting the prevention of harm to workers in MSEs generally. Or indeed, that trade union engagement with new approaches to regulation and governance is always encouraged or accepted by state actors. Therefore, it seems there is still a considerable way to go before trade unions play a sufficiently prominent role in these wider strategies to contribute effectively to representing the interests of workers caught up in the situations they are intended to address, and thereby more effectively meet the challenges of change in the structure, organisation and control of work and employment, in which MSEs also feature prominently.

8.4 Summary and conclusions

This chapter has presented a discussion of the main findings of research in five European countries concerning the role and achievements of trade union prevention actors in supporting workers' safety and health in MSEs in the EU. It has focused on the evidence of previous chapters concerning their effectiveness and discussed supports and constraints as identified by the present research. It has also situated both the reality and potential of TUPAs to contribute to improved OSH in MSEs in relation to the wider strategies of governance and regulation that share the same purpose in the EU and its Member States, discussing the implications of this for future prevention policies on OSH in MSEs in Europe.

First and foremost, the contribution of this study adds to existing evidence of the effectiveness of TUPAs. Despite marked differences between schemes involving TUPAs in four of the five countries studied, a consistent finding was that, in the experience of both participants and observers of these schemes, they were effective contributions to the means of improving the safety and health of workers in MSEs. This was not the case in the fifth country, because the research found no evidence of the presence of such schemes among the strategies to address OSH in MSEs in Poland.

The research confirmed the findings of earlier studies concerning the supports for TUPAs' interventions (Walters, 2002). It divided discussion of these supports into first considering those with an institutional basis, and then those that explain the effectiveness of TUPAs based on their personal qualities and their mode of action. But the discussion also made the point that, in practice, these two types of support are interlinked and operate in tandem with, for example, the contributions of personal qualities and modes of action of TUPAs being also dependent on the nature, quality and extent of the institutional support they receive. In short, the discussion found supports for effectiveness to include:

- a regulatory steer, such as is strongly evident in Sweden but is also present in Italy;
- commitment and action from trade unions, embedding their TUPAs strategies firmly in their organising priorities as well as those on OSH and MSEs
- engagement of other institutional actors with TUPAs schemes, especially through bipartite or tripartite agreements between unions and other institutional actors, in particular those representing employers, as well as those representing the interests of MSEs, regional and local government, regulatory authorities, social insurance organisations, OSH practitioners and other bodies with related interests;
- secure and sustained funding for TUPAs schemes either through state support or through the above agreements, or both

Turning to the personal qualities and modes of action of TUPAs, the discussion in this chapter has made it clear that research findings strongly suggest that, apart from the external nature of their relations with



workers and employers in MSEs, what supports effective action is not that dissimilar to the findings on these matters in relation to health and safety representatives operating from inside workplaces. That is, confident, well-trained and well-informed representatives who use a mixture of political, legal and technical skills in the ways they approach their tasks, are most likely to have some chance of influencing the OSH outcomes of their engagement with both workers and owner-managers in MSEs.

It is further notable that, in so doing, these change agents also meet the criteria of success that wider research on the interventions of intermediaries in OSH in MSEs concludes to be effective. This is particularly important when reflecting on the possible role of TUPAs in wider policy and strategies to support sustainable improvement in OSH in MSEs, and the discussion in the present chapter concludes on this note. It argues that the findings of the present research confirm those of previous studies and point very strongly to the potential TUPAs have to play a significant part in the co-ordinated strategies of support that wider research on OSH in MSEs has argued to be necessary if good practice in relation to OSH in these MSEs is to be transferred more widely and sustained. Moreover, it explains why this is so by focusing especially on the mode of action of TUPAs. However, it also acknowledges that the realisation of this potential is beset with a number of significant challenges, including the need for sufficient political will to include support for these approaches at appropriate levels in national and EU policies; continued commitment from trade unions in ensuring the effective delivery of the contribution of TUPAs, along with continued exploration of making this contribution more relevant and attuned to the changing world of work and employment and their control; co-operation from the key actors involved; as well as redistribution of resources to reflect the public responsibilities of production and thereby safeguard the safety and health of workers in all workplaces, regardless of size, and to remove inequalities in this respect.

In most of the countries in the present study there are signs that if the above preconditions were met, the role of TUPAs in effective strategies to support OSH in MSEs has the potential grow into an even more significant and important contribution than it is already. However, as is illustrated by the experience in the fifth country we have studied, without such preconditions it is unlikely that such schemes can have even the smallest impact.



9 Conclusions

This report has presented an account of schemes in which trade union prevention agents are active in supporting OSH in MSEs in four EU countries. It has discussed what their operation suggests concerning their effectiveness and its support. The research also examined approaches to the involvement of TUPAs in a fifth European Member State, but was unable to find evidence of their presence. References to Poland in the report have therefore mostly concerned the contextual reasons that help explain the absence of TUPAs from initiatives to improve OSH in MSEs in this country. These are, of course, also important in informing reflections on the feasibility of a significant role for TUPAs in European strategies to improve OSH in MSEs in the future, which has been one of the central aims of this report. This final chapter, therefore, summarises the research findings and their analysis and offers some conclusions concerning the key features of TUPAs and their contributions to OSH in MSEs, including: the problem they address, how they operate, what determines the nature and effect of their actions and the contexts in which they take place in the countries studied. Here, as in other chapters, the aim has been to situate the evidence of the present research in relation to the wider contexts of current knowledge concerning 'what works, where and for whom' in supporting improved arrangements for the safety and health of workers in MSEs. This approach allows some final reflections concerning implications for the role of trade unions in future policies and strategies on the governance and regulation of OSH in MSEs in the EU.

9.1 The problem of OSH in MSEs

Chapter 3 of this report began by outlining the social and economic significance of micro and small enterprises (MSEs) in the economy of the EU, in terms of their numbers and share of employment, as well as their wider contribution to the economy, and to European societies more generally. It noted that outcomes for safety and health of workers in a substantial proportion of these enterprises have been a cause for concern for some time, and pointed to the presence of a significant inequality between workers in these enterprises and those in larger organisations, concerning both their exposure to risk and the extent to which they benefit from arrangements in place to protect them and manage these risks appropriately. It further pointed out that the reasons for such inequality are found in the multifaceted dimensions of their resource poverty and consequent vulnerability in both human and economic terms. This in turn is widely recognised to be a result, not only of limited awareness, skills and capacities of owner-managers of MSEs to manage OSH effectively, but also the weak and vulnerable positions in which these firms are frequently found in the markets in which they conduct their business. The struggle to address the competitive pressures that determine the economic survival of many MSEs means their owner-managers often do not prioritise adequate worker protections and workers often accept this situation in efforts to preserve their pay and employment security.

In these circumstances the challenge for governance and regulation of OSH in MSEs, as well as to trade unions that represent the interests of workers in these firms (regardless of whether they have members in them), is how to get regulatory frameworks to protect workers' safety and health effectively operationalised and their benefits delivered to these workers.

9.2 Strategies for prevention and the significance of TUPAs

The earlier chapters of this account explained how, in theory, TUPAs have the potential to play a significant role in contributing to improved OSH in MSEs. For example, Chapter 3 indicated that, while EU Member States have frameworks in place for the governance and regulation of OSH in *all* workplaces, review of the research literature on OSH in MSEs demonstrates that for many MSEs this alone is insufficient to ensure the presence of appropriate arrangements for OSH. It showed how acknowledgement of the need to ensure OSH messages are delivered in ways that are relevant and useful to owner-managers has led to a substantial array of tools developed to bridge the gap between regulatory requirements on good practice on OSH and the concerns, practices, abilities and understandings of owner-managers in MSEs. These tools aim to equip owner-managers and their workers with the knowledge, skills and instruments to operationalise OSH requirements and duties. But as this report has also pointed out, a second key finding of previous research is that such development does not achieve operational change on its own, because whatever their clarity and relevance, such arms' length tools do not necessarily motivate owner-managers to use them.



Emergent from this research, therefore, has been a consensus that some form of intervention is mostly necessary to assist owner-managers and their workers in understanding, implementing and operating required OSH arrangements. The review of previous research presented here has taken the theoretical position that TUPAs are key players in providing such intervention.

In brief, in Chapter 3, we argued that the findings on ‘what works’ in terms of intervention in MSEs provides strong evidence that the role of intermediary actors and processes are important. Our review of previous research confirmed that face-to-face contact with change agents is by far the most effective way of bringing about a successful intervention. While the use of more arms’ length methods may have some merit, they are nowhere near as effective as those that reach out to owner-managers in MSEs in ways that include some form of personal contact with change agents, whoever they might be. Of course, regulatory inspectorates have long known this and indeed research has repeatedly confirmed that face-to-face contact between inspectors and owner-managers produces action, but since there are so few inspectors and so many owner-managers, significant contact between them is extremely unlikely. Research shows that, instead, there is considerably greater likelihood that owner-managers will have contact with a host of other intermediaries with the potential to convey messages that may have the same effects on actions on OSH. Some, such as OSH practitioners, advisers and consultants, and the agents of social and employment insurance organisations, have detailed knowledge of the ways and means required to meet OSH requirements or use OSH related instruments. Others, such as other agents of the state (for example, tax or customs and excise inspectors), business start-up advisers, other financial advisers, the officers of employers’ associations and small firm organisations, suppliers of substances and materials, and so on, have less OSH knowledge but are nevertheless likely to be able to command the attention of owner-managers. TUPAs are good examples of the first type of intermediary, and therefore it might be anticipated that they will be well-placed to have a significant impact on improving arrangements for the safety and health of workers in MSEs.

The findings of the present research confirm this. In the cases investigated in four of the five countries included in the study, the TUPAs who participated were usually well-trained, well-informed, experienced, confident and competent interlocutors on OSH for both workers and managers in MSEs. As the summary presented in the following section concludes, in the majority of these cases they were able to show that they had been able to achieve significant improvements in awareness of, and arrangements for, OSH in the MSEs that they had visited and helped. This was not the so in the fifth country, but here we found no cases of TUPAs involvement in MSEs and concluded that wider political and economic contexts were unsupportive of such arrangements in this country.

However, a major concern with the role of intermediaries identified in wider research on OSH in MSEs generally, is that, unfortunately, while research demonstrates their usefulness, it also indicates that the nature of their interventions is often quite narrow, focused on support for addressing particular problems, often in restricted types of MSEs, localities and trades, and thus its effects may be quite limited in terms of their reach and transfer. It also suggests that their sustainability is problematic, especially because of their often time-limited funding. Our studies have shown that the same can be said for many of the examples of TUPAs reported from Italy, Spain and the UK, and when this evidence is combined with the findings of research previously undertaken on TUPAs, these limitations become even more apparent. For example, the majority of the TUPAs schemes included in the review undertaken by Walters in 2002 in these same three countries are no longer active, not because evaluations found them to be ineffective, but mainly because there was no provision made for their long-term resourcing. Moreover, many of the present schemes we have studied are dependent on the co-operation of employers, their organisations and those of small business and restricted to trades or localities where such co-operation can be found. The funding for them is often precarious and its future highly uncertain, while other schemes, such as those currently operating in the UK, have no extra funding at all and rely on the goodwill and mutual agreement of the parties concerned to facilitate them within their existing resourcing by whatever means they have available.

Nevertheless, despite these significant challenges, the findings of the present research in these three countries, as well as those on the more robust, comprehensive and better sustained provision in Sweden, suggest sound reasons why it might be anticipated that TUPAs and trade union actions on OSH in MSEs more generally, are among the schemes involving intermediaries that are most likely to be successful and sustainable. We have concluded that they therefore have the potential to play a significant part in the co-ordinated strategies for supporting OSH in MSEs that recent research suggests as a positive way forward (see EU-OSHA, 2018a). We will return to further reflections on this following the next section, in which we



first summarise our conclusions on the experiences of TUPAs in the four countries in which we have found them to be active.

9.3 What TUPAs achieve and what supports their achievement — evidence from the findings

Chapter 8 discussed the findings from the detailed cases of the actions of TUPAs in four countries. It concluded that, although there was great variation in the quality and extent of evaluation (reflecting the different levels of development of TUPAs in the four countries), there was nevertheless reasonable evidence from all these countries that TUPAs were a significant support for improved OSH awareness, arrangements and practices in MSEs. They were a particular support for workers in MSEs who otherwise may have felt unable to raise OSH issues with their employers, and they further supported efforts to improve participative arrangement on OSH in these firms. But more often than not they were also valued by owner-managers of MSEs as sources of guidance on OSH that was especially relevant to their needs.

The research also examined the mode of action of TUPAs and showed that they were usually experienced, well-trained, well-informed and competent trade union representatives that acted in ways similar to those explored in greater detail among workplace health and safety representatives and described in the literature as typical of 'knowledge activists' (EU-OSHA, 2017c). That is, they behaved in ways best understood in terms of the actions of experienced worker representatives. Where it was appropriate to do so, they actively defended the interests of exploited workers. At the same, they were sensitive to their position as external agents and of their potential influence on owner-managers who were receptive to advice and guidance on good practices. Their actions therefore also often involved the delivery of OSH expertise to owner-managers as well as workers.

The research found these achievements to require institutional support, which was available in a variety of ways and to varied extents in different countries, sectors and localities, and these various forms of support were important in shaping the modes of action adopted by TUPAs. First and foremost, the research concluded that a regulatory steer was probably the most significant support available to TUPAs, and in countries, such as Sweden, where regulatory provisions have been embedded in national requirements on the work environment for decades, their effects were strongly facilitative of the extent of TUPAs activity — which was far greater here than in any of the other countries studied.

But regulatory provision is a product of national context and, while it is undoubtedly an important influence in Sweden, it is not the only reason for the spread and success of regional safety and health representatives in this country. Comparatively high levels of trade union density in Swedish workplaces, as well as a long-established culture of social democracy, allow its effective operation in Sweden in ways that would not be supported in the other countries in the study. Nevertheless, we have concluded that a regulatory steer remains an important support for TUPAs schemes generally because, even if its provisions are not as extensive as in Sweden, it can still provide a platform of basic requirements on which more specific and detailed arrangements can be made according to circumstance. This was largely seen to be the case, for example, in Italy, where regulatory provisions also exist, albeit in a more limited way than in Sweden. Of course, the labour relations and business contexts in which the actions of TUPAs occurred were also influential in both shaping them and in determining their outcomes, as were the effects of sector, size and business practice in the cases studied. The research further concluded, therefore, that just as important as a regulatory steer, were the collective agreements that could build more detailed and practical arrangements fitted to local and sector business conditions. In addition, such agreements imply the support and co-operation of other institutional actors, as was seen in all of the four countries where TUPAs were active. Not only did these include the trade unions' traditional interlocutors, such as employers' organisations and regulatory agencies, but also small business and practitioner organisations and, in some countries, at least historically, they have included the agencies and organisations of social insurance too.

The research concluded that a major feature of the support for TUPAs that helped to determine the size and scale of their actions was the level and continuity of funding for schemes involving them. Here again national context would seem to be a primary influence, and what has occurred in Sweden in relation to the original and current sources of public and trade union funding has not been replicated anywhere else.



There are several further conclusions to be drawn in relation to resourcing. Firstly, the evidence suggests that if TUPAs schemes are to enjoy any significant degree of development, they will require some level of funding. Secondly, if this support is not continuing, it is unlikely that the TUPAs schemes will become well-established. Thirdly, there are a variety of sources of funding, but arguments concerning the cost-effectiveness of the schemes need to be made at the macro level if they are to be meaningful, since the costs of poor OSH outcomes in MSEs are mostly felt at this level, rather than at the level of individual enterprises (except in the case of catastrophic incidents). The research therefore further concludes that these too are issues involving the national contexts in which TUPAs occur, since political will is necessary to make such decisions concerning resources on a sufficiently wide scale for cost-efficiency arguments to apply. It is significant in this respect that, with the exception of Sweden, in all of the countries studied there had been either very limited or non-existent efforts made to fund TUPAs in these ways. Even in Sweden, as we have previously noted, such funding appears to be politically contentious.

Finally, while the cases in the four countries studied mostly focused on trade union prevention *actors* (TUPAs), the research nevertheless also frequently noted the wider role of trade union prevention *actions* in contributing to the support for workers on OSH in MSEs. Chapter 8 argued that the latter were especially significant when account was taken of the challenges presented by change in business operation and its regulation in most EU economies. It noted the effects of these changes on the way in which work is structured and organised and discussed its effects on both the practice and perceived outcomes of TUPAs. It also explored what other forms of trade union action could be seen to be supporting the representation of workers' interests in small firms in such situations. From this discussion it is concluded that there is some evidence of a wider and more varied role for trade unions as intermediary actors in supporting intervention processes on OSH in these changed work scenarios in which MSEs are often embedded. Several initiatives found in the UK, in Sweden, in Spain and in Italy, as well as evidence of a wider awareness among trade unions concerning the challenges that change in the organisation, structure and control of work present for conventional approaches to the representation of workers' interests, point to ways in which trade union preventive actions can be adapted to address these scenarios. For example, there are joint structures to support workers and employers in small firms with advice, information and training in which there is engagement of trade unions in several EU Member States. Interventions higher up supply chains have also been employed by trade unions in sectors such as transport, textiles and construction, both nationally and globally, to influence the working conditions experienced by workers in the micro and small firms that are often situated at their ends. All of these examples have already been shown by the literature to be successful. Again, however, wider national political and economic contexts are important determinants of such actions and in terms of the potential obstacles confronting such transfer and development of both preventive agents and actions. It is, therefore, a sobering reflection that in the fifth country included in this study, no such agents or actions were evident and the national context was widely agreed to be unsupportive of them.

9.4 Implications for policy and strategy

In the Introduction to this report we pointed out that recent research on 'what works' in relation to strategic support for OSH in MSEs has suggested that to overcome the known limitations of interventions, co-ordinated approaches in which several key players and processes are involved in more orchestrated actions in which support for reach, sustainability and transfer are embedded are possible solutions. We further noted the link made in recent published research between what studies of OSH in MSEs have found to be successful, and contemporary regulatory research showing the need for smarter regulatory strategies to address the consequences for OSH compliance created by the changing world of work. Putting the findings of these two separate fields of research together with those of the present study suggests several important conclusions:

- TUPAs have special features that enable them to act as successful intermediaries, worker representatives and change agents on OSH, with both workers and owner-managers in MSEs;
- Intervention strategies that use intermediaries including those involving TUPAs are more successful at achieving improved OSH than arms' length strategies, but they are limited in their reach, transfer and sustainability;
- Co-ordinated strategies that combine intervention with strategic leadership and support from peak organisations involved in the market relations in which MSEs are embedded, have a better chance to overcome these limitations of reach, transfer and sustainability, including those found in the



changed scenarios of structure, organisation and control increasingly present in European economies;

- Trade unions are among these peak organisations. Despite the reduction of their membership and power in recent decades, they remain a ubiquitous presence across most sectors of economic activity in the EU. As such, in terms of the sustainability of actions to support OSH in MSEs, they are potentially very important indeed, and their engagement centrally in whatever public/private regulatory mixes are employed by governance to take forward these co-ordinated strategies may be an important key to the success of such strategies

Our overall conclusion, therefore, is that our evidence confirms the strong potential of TUPAs to play an important role in future strategies to achieve more effective arrangements for OSH in MSEs and related scenarios. These include the strategies necessary to deliver the objectives of recent EU policies on OSH (see Chapter 8) and also to address OSH protections in the ‘new world of work’ currently denied to many vulnerable workers, a large proportion of which labour in MSEs. However, to realise this potential requires the political will necessary to think positively and creatively about macro level policies and strategies that will support the extension and resourcing of schemes involving TUPAs. Our findings show very clearly that this includes an examination of ways to improve legislative support for the rights of workers in MSEs to have access to trade union representation on OSH matters; and serious consideration of the cost effectiveness of funding to extend the arrangements involving TUPAs that have proven successful, both more widely and on a more long-term basis than is presently the case in most EU countries. Rather obviously, this also requires buy-in from the key institutional actors involved, including not only trade unions but also regulators, employers and small business organisations at national, regional and local levels.

We therefore end on a more cautionary note. Throughout the report we have focused on examples of good practice and the supports necessary to ensure their success. We have found a number of cases in several countries in which it has been possible to demonstrate how these can work to improve the experience of OSH arrangements and their outcomes for workers and owner-managers in MSEs. But it would be naïve indeed to assume that evidence of the existence of these positive outcomes is sufficient to ensure the support necessary to achieve their wider application. After all, as we have already noted, a previous publication which included an exploration of the role of TUPAs in the same countries as those we have studied in the present report, came to more or less the same conclusions concerning their usefulness (Walters, 2002). Yet, nearly twenty years later, the schemes discussed in that previous publication have not grown significantly. Indeed, many of them have ceased to exist altogether, while many others have struggled to survive. Moreover, in countries such as Sweden, where the preconditions for an effective contribution to be made by TUPAs are already well established and there is good evidence that such a contribution is in fact made in this way, the work of TUPAs has become increasingly difficult, the proportion of funding received by trade unions to organise these initiatives has continued to fall in comparison to the overall costs of the schemes and their very existence remains threatened by the consequence of a possible political change in government. At the other extreme, in at least one of the EU Member States in which we have explored the possible existence and actions of TUPAs we have found that no such schemes appear to exist and the preconditions for their support are also not present. In others, such as the UK, the few schemes that could be described as involving a form of TUPAs are nowadays mostly the result of unilateral initiatives on the part of trade unions that have been able to achieve a limited number of successes mostly with local sector based agreements, which, while reasonably successful in their own right, do not seem to be the basis for more universal extension, without considerable additional support.

The conclusion from this is plain. Despite the evidence of the achievements of TUPAs, the spread of their development is relatively limited in most Member States of the EU. For the most part, they are neither supported by legislative actions nor by sustained funding and there remains considerable resistance to the mainstream adoption of such approaches from employers’ and small business organisations and their political supporters in government. To exploit the potential that is shown by the limited schemes studied so far would require initiatives at sector and national levels and a strong leadership steer. But regulators are wary of adopting this role because of the perceived resistance to such schemes from employers and their representatives, while trade unions are also cautious of unilateral commitment to such schemes. Although demands for legislative provisions to set up arrangements to enable them to represent workers on OSH in MSEs have been made by trade unions in many countries, promotion of OSH in MSEs through the role of TUPAs rarely features prominently in the organising strategies of these and other trade unions. There may be sound, if pragmatic, reasons for this. In a climate in which unions generally struggle to retain members



and recruit new ones, devoting their diminishing resources to actions perceived to require the investment of resources in initiatives that produce little in the way of significant gains in membership, profile or power are unlikely to be appealing, or indeed even practicable.

We therefore end with the conclusion that, although research clearly demonstrates the benefits of TUPAs and their potential to play a more significant role in delivering the prevention strategies on OSH in MSEs in the modern world of work that are sought by the EU, to achieve this potential will require a considerable shift in the political will of all key actors in peak organisations of governance, regulation and the market.



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