

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

Country report – the Netherlands

European Risk Observatory

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List of abbreviations

AWVN	Algemene Werkgeversvereniging Nederland (General Association of Employers Netherlands)
BRF	basic risk factor
CBS	Centraal Bureau voor de Statistiek (Statistics Netherlands)
ESENER	European Survey of Enterprises on New and Emerging Risks
EU-OSHA	European Agency for Safety and Health at Work
FNV	Federatie Nederlandse Vakbeweging (Dutch trade union federation)
GBIO	Gemeenschappelijk Begeleidingsinstituut Ondernemingsraden (Joint Support Institute for Works Councils)
HRM	human resource management
HSE	health, safety and environment
OSH	occupational safety and health
OSHM	occupational safety and health management
SER	Sociaal-Economische Raad (Social and Economic Council of the Netherlands)
SME	small and medium-sized enterprise
SSVV	Stichting Samenwerken voor Veiligheid (Foundation for Cooperation on Safety)
VCA	Veiligheids Checklist Aannemers (Safety Checklist Contractors)
WCA	Working Conditions Act
WOR	Wet op de Ondernemingsraden (Works Councils Act)

Executive summary

This report investigates the potential role of and current practices in worker participation in occupational safety and health (OSH) in the Netherlands. Although there may be some bias in the 21 cases used in the research, as the companies that were willing to participate in the study are probably more positive in their attitude to worker representation than those that were unwilling, the research proved helpful in providing evidence of how worker participation in OSH functions in practice and in identifying some of the main drivers for and barriers to achieving effective worker participation.

Whereas in the Netherlands both OSH legislation and the Works Councils Act provide a solid legal basis for effective worker participation in OSH, and previous research has evidenced its effectiveness, it is clear that worker participation is not used to its full potential. At the level of formal representation, not all companies that are required to set up a works council have done so. More specifically, previous research has found that the legal provisions on worker participation in OSH are not always met. In addition, in the majority of companies where so-called 'prevention workers' are active, they do not discuss OSH measures with the works council or even with the affected workers. Only in roughly one-third of all companies are workers actively involved in OSH policy.

While carrying out the research, the Dutch team encountered various examples that indicate that the effective contribution of workers to OSH is in fact valuable, as well as showing what factors can lead to an effective contribution. It was found that the role of workers is particularly valued at the 'operational' level, meaning that in many companies workers (or their representatives) are actively involved in identifying risks and, in some cases, contributing to (better) practical solutions to tackle OSH risks. At a more strategic level, where OSH is seen as an integrated element of good management in general, the role of worker participation appears to be rather marginal. As was found in a number of the case studies, the rise of OSH management systems plays a dual role in this respect: on the one hand, such systems may boost worker involvement at the operational level, but, on the other, they may tackle OSH management using a purely technocratic approach — serving to downplay the fact that OSH is, to some extent, also a labour relations issue.

The research also established some key factors in effective worker participation. Management commitment to OSH and cooperative labour relations were found to be vital for effective participation. Furthermore, adequate time and specific knowledge on the part of workers, as well as legal protection, are prerequisites for a valuable contribution by workers. Close cooperation with trade unions may also encourage effective worker participation in OSH, but this was found in only a very limited number of cases. Where participation is not well established or is totally lacking, clear-cut legal provisions and effective enforcement are needed to ensure that workers are protected.

Introduction, goals and methodology

Goal

This national study describes the role of and current practices in worker participation in occupational safety and health (OSH) in the Netherlands. It not only addresses the question of whether or not worker participation contributes to better safety and health [as evidenced previously by Popma (2003, 2009a) ⁽¹⁾], but also deals with the question of *how* participation might contribute to better safety and health. The goals of this national study are to:

- provide a picture of the Dutch body of legal provisions pertaining to the role of worker participation and of the Dutch system of labour relations within which worker participation is embedded, thereby contributing to the comparative report as well as to the knowledge of the Dutch system of non-Dutch policy-makers and OSH researchers;
- indicate, in general, how worker participation can contribute to better OSH management, as well as how, in the 21 case studies in the Dutch sample, it has done so; and
- gain a better understanding of what supports and what limits the participation of workers and their representatives in OSH management.

Introduction

This report describes worker participation in safety and health in the Netherlands. ‘Participation’, for this purpose, includes both formal representation and direct participation on the shop floor level; however, the focus will be on the former. The Netherlands has built solid experience in formal workers’ representation at various levels (national, sector, company), which emanates from a long-standing tradition of corporatism (Popma et al., 2002). Representation at the national level takes the form, most importantly, of consultation with the trade union confederations in the Dutch Social Economic Council, which is an advisory body to the Dutch government (in particular to the Dutch Minister for Social Affairs and Employment, who is responsible for OSH legislation). At the sector level, two forms of representation are of importance, namely the process of negotiating collective labour agreements and, more importantly in the context of this report, the recent trend of establishing so-called OSH catalogues (see section 1.3). The most important level of worker participation, however, is the company level. At this level, it is mainly the works council (in companies comprising over 50 employees) and the elected ‘employee representative body’ (*personeelsvertegenwoordiging*) (in companies of 10-50 employees) that play a statutory role in safety and health policy.

An interesting feature of workers’ representation in the Netherlands is, primarily, its rather undisputed position — notably in the case of the works council. This undisputed position is grounded in the fact that works councils have played a central role in Dutch OSH policy ever since the 1950s and also because of a shared feeling that worker participation in OSH yields positive effects at the company level (Popma, 2003, p. 183) ⁽²⁾. Another interesting feature is that, from a comparative perspective, the Dutch works council has statutory powers that clearly exceed mere information and consultation. The statutory position of worker representatives in OSH will be described more extensively in section 1.2.

Structure of this report

The core of this national report is found in Chapters 2 and 3, which present the findings of the fieldwork (worker participation in practice) and indicate key elements of effective worker participation. Before turning to the core of the present research, Chapter 1 will give an overview of the general context in the field of OSH — in terms of not only the labour relations system (section 1.1) and the legal and policy context pertaining to OSH (section 1.2), but also the relevant socio-economic context (section 1.3). In particular, Chapter 1 describes the position and statutory role of the works council and the employee

⁽¹⁾ This national report builds on only Dutch findings; findings from other countries will be presented in the other national reports as well as in the overview report.

⁽²⁾ More than half of all employers acknowledge that worker participation leads to more careful decisions, better support for policy measures and better protection of workers’ interests.

representative body, worker representation on the sector level, and the current position of trade unions and employers' organisation on the role of worker participation (sections 1.1.1-1.1.4).

Chapter 2 describes the findings of the present research and was, where necessary, complemented with findings from other sources. The findings are primarily collected through 21 case studies, which mainly consist of semi-structured interviews with representatives of workers as well as of management. The case studies focus explicitly on the *dynamics* of worker participation in OSH, thereby seeking to add to the already existing body of evidence in this field, which for the larger part is built on quantitative data. Workers and worker representatives in the Netherlands do actually play an important role in OSH, notably in an 'operational' sense; however, they do not make the most of the various opportunities to play an even more effective role at a strategic or tactical level.

Chapter 3 analyses key drivers for and barriers to effective worker participation at company level, such as expertise, time, the relation to the constituency, the *moment* of worker participation and also in relation to the existence of a safety and health management system. Some of these key drivers have already been described in literature, but our findings are given more depth as a result of the 21 case studies carried out in Dutch companies, which formed the core of the present research.

Presentation of findings

This report builds on various sources of knowledge, of which the 21 case studies are the most important. The findings of the case studies are presented against a background of other empirical findings, such as existing scientific literature, policy evaluations and findings from the Second European Survey of Enterprises on New and Emerging Risks (ESENER-2). The research team chose a combined presentation of these various findings to achieve both triangulation of sources and clustering around certain sub-themes; this, we think, will help the reader to grasp the depth of the material better than presenting all findings from the respective methodological steps.

Methodology

As can be inferred from the above description of the presentation, the Dutch research team used various methodologies to obtain the empirical data needed to answer the main questions in this research. In addition to a literature review (both scientific literature and policy reports), we used some of the findings of ESENER-2 that related to the Dutch situation and critically compared them with pre-existing Dutch data — notably with the bi-annual study 'Arbo in Bedrijf', which is conducted by the Dutch labour inspectorate. This study by the labour inspectorate is, from a methodological point of view, a very robust one. Not only is the sample size rather good ($n = 2.804$) (Inspectie SZW, 2015a, pp. 105 ⁽³⁾) but, as the survey was filled out by inspectors during inspection visits at company level, the non-response was 0 %. In addition, in comparison with 'self-report' surveys, it was far less probable that the respondents would paint too rosy a picture of the situation in their company, as the inspector could cross-check the answers with company documents as well as his or her own observations at shop floor level. As will be shown later (Chapter 2), the ESENER findings appear to paint a much more positive picture of safety and health policy in companies (TNS, 2015, p. 18) ⁽⁴⁾ Some of the previous empirical findings on the contribution of works councils to safety and health (Popma, 2009a), which are presented in Chapter 2 of this report, were based on previous versions of 'Arbo in Bedrijf' as well.

The most important part of the research, however, is the case studies. The Dutch research team conducted 21 case studies in several branches in accordance with the overall research protocol (see Overview report). In conformance with this proposal, the research team selected a total number of 21 case studies: nine small (10-49 employees), six medium-sized (50-249 employees) and six large companies (250+ employees). The case studies are presented in Annex I. A sample size of 21 clearly does not aim for representativeness in a quantitative sense; however, even though representativeness

(3) Stratified sample; stratification on basis of 38 economic sectors and 6 size categories.

(4) The ESENER-2 Quality Report states: 'In how far these efforts were successful can only be assessed by researchers and experts on the local level, e.g. by comparing certain findings (e.g. on the share of doing adequate risk assessments) with possibly available statistics of the labour inspectorate or other national sources' (TNS, 2015).

is not the aim per se in a qualitative study, this report does contain some methodological notes on the quality of the sample.

The sample was drawn from an already select larger sample of participants in the ESENER survey. As suggested previously, the ESENER study could be considered positively biased to some extent. Furthermore, the fact that the participants were willing to invest extra time in the case studies could be an indication that the participating companies could be considered to be even more 'above average'. In addition, not only were the cases selected on the basis of the willingness of the companies involved, but being chosen from the ESENER samples also meant that, in most cases, the first contact was with members of management rather than employee representatives. This, too, could entail some bias against worker representatives who are too critical.

We used two methods to establish the quality of our sample. First, a non-response analysis was used; second, three characteristics were compared using previous findings on the functioning of works councils (notably Vissee et al., 2012).

Selection and non-response

Although we did our best to obtain an even distribution of case studies (for example, geographical spread and diversity of activities), the non-response was not evenly distributed (see Table 1). In the whole public sector as well as in 'Industry, middle', there were no non-responses. In other categories, had we not lowered our standards somewhat, we would have come close to running out of options ⁽⁵⁾. This was particularly true of two of our three 'small' categories. At the beginning of the selection process, we ceased contact as soon as we found out that an organisation had no formal employee representation. Later in the process, however, we had to backtrack on this principle. There simply were not enough small organisations that met this standard ⁽⁶⁾. A second striking thing is the number of 'no's in the 'Service' column.

Among the grounds for refusal we noted:

- Everybody is too busy (this was the most frequently used reason).
- We have a new director *or* the only manager who can speak with you about this is away on a long trip.
- Our works council is in the process of being newly elected *or* just starting off.
- We are too small for this.
- The subject is not a priority for us *or* we can gain nothing by cooperating.
- You could try it at a higher level, but we cannot cooperate at our own company level.
- Because of information technology problems, our whole organisation is in a shambles at the moment.
- We have had too many surveys and are afraid that people are tired of them.

In a couple of the case studies, we had made an appointment but it was cancelled before the date of our arrival, for example because of takeover talks (which we listed as a 'no'). In two cases, despite trying, we were unable to get hold of someone who had the authority to speak to us on the phone (not listed).

(5) Two organisations turned out to belong to another category than they were classified in on our list; this was not discovered until after our arrival on the premises. In one case, it was simply a matter of size; as we found this out at an early stage, it was not a problem. The second case involved an industrial company that had been listed as a service company; it was too late to replace it with another service organisation by the time we discovered this.

(6) See Annex I for descriptions of the exceptions that were made.

Table 1: Uneven distribution of non-response

	Industry	Service	Public
Small	12 no, 3 yes	11 no, 3 yes	0 no, 3 yes
Middle	0 no, 2 yes	7 no, 2 yes	0 no, 2 yes
Large	2 no, 2 yes	7 no, 2 yes	0 no, 2 yes

Notes: 'No' does not always mean a refusal of our request; it also includes 'no formal employee representative present, request withdrawn'. This was the reason, or one of multiple reasons, for 21 'no's (out of 39 that refused or were unable to cooperate). One of the 'no's under 'Service, middle' should have been listed under 'Industry' (see footnote 7).

Even though the research mainly aims for qualitative rather than quantitative findings, the high non-response rate may be an indication of the problems of worker participation in OSH that exist in small companies. As time is one of the main drivers for and barriers to effective participation, the lack of time to participate in a small-scale study could be an indication that one of the main drivers is lacking in the smallest companies. In addition, the fact that formal representatives (with corresponding legal rights; see section 1.1.2) are rare in the smallest of companies could have an impact on the effectiveness of worker participation at this level (see Chapter 3). If formal representation appears to be more effective than regular participation, which has been indicated in previous literature (Popma, 2003, 2009a), the fact that we had initially deemed companies without formal representation unsuitable to partake in the survey could imply that our findings may be considered to err on the positive side once again.

Comparison of the case studies

All in all, we managed to find enough case studies to include in the research. Once again, even though, from a statistical point of view, we did not envisage representativeness, we have tried to establish if our sample differed greatly from worker representatives in general. With this in mind, we compared our sample with some characteristics that, in previous studies (Popma, 2003), showed up as relevant drivers for and barriers to effective participation — notably a lack of works council members (vacancies) and the existence of a specialised committee on safety and health (OSH committee). The existence of an OSH committee is associated with more effective worker participation.

When we compared our sample with national findings on characteristics such as arrangements to facilitate representation (enough candidates during elections for the works council, training, time off, professional secretarial support), we got the general impression that the workers' representative bodies in our sample, notably the works councils in the medium-sized and large companies with over 50 employees ⁽⁷⁾, appear to stand out positively:

- Whereas nearly one out of three works councils in total have vacancies (Visser et al., 2012, p. 12) ⁽⁸⁾ and an even greater number do not need to hold elections because of a lack of candidates, only 3 out of the 12 cases in the sample of companies with 50 employees or more had a vacancy and another 3 out of 12 mentioned that they did not need to hold elections because of the limited number of candidates (see table 2).
- The works councils in the sample appear to have above average facilities, such as training and time off, but it is difficult to make a detailed comparison of the findings in the sample with the reference group.
- Ten out of twelve works councils in the sample have set up an OSH committee, whereas roughly 50 % of all works councils in the Netherlands have done so (Visser et al., 2012, p. 12; Popma, 2003, p. 174).

(7) In smaller companies, there is little empirical evidence on training, vacancies and/or existence of OSH committees.

(8) Other studies have reported even higher numbers of works councils that have vacancies, up to 48 % <http://www.orinformatie.nl/blog/2007/03/14/bijna-helft-lege-zetels-in-de-ondernemingsraad/>.

Table 2: Better than average works councils?

Name	Number of members	Vacancies	OSH committee	Researcher
Hopital	15	No	Yes	JP
Dutch Delhi	15	No	Yes	BvL
MentaWorks	13	No*	Yes	JP
NoFer	11	No	Yes	BvL
Hubbers	9	No	Yes	BvL
Glasswool	9	No	Yes	BvL
Crossroads	9	No*	Yes	BvL
Chrisanity	7	No*	Yes	BvL
Twin City	7	No	Yes	JP
RollingPress	4	1	Yes	BvL
Barrel	4	1	No	BvL
Shipeneer	4	1	No	JP

Notes: names of companies are pseudonyms to protect their identities.

* = just enough candidates, so no election for works council.

BvL, Bernard van Lammeren; JP, Jan Popma.

Case interviews

The companies involved in the research were visited by two researchers who both have over 25 years of experience in the field of works councils and OSH, as researchers; one of the researchers also worked a works council trainer for three years and the other researcher has broad journalistic experience in the field of works councils. The case studies were divided between the researchers (15 to one and 6 to the other) in such a way that they would both visit cases in each category and size, enabling better cross-case analysis and investigator triangulation. In all but three case studies, the researchers spoke with the management representative and the employee representative separately, to strengthen an atmosphere of open conversation. In one case (MentaWorks) the respondents participated in the interview simultaneously. According to the researchers, this did not prevent the employee representative from speaking frankly.

The interviews were conducted on the basis of a semi-structured interview protocol. The summaries of all interviews were submitted for a member check ⁽⁹⁾. In a limited number of case studies the interviewees suggested some minor adjustments to the researcher's account of the interview.

In the first case studies, in addition to the interviews, we attempted to have small groups of workers fill out a very short survey, which was meant to serve as an extra check on the findings based on the interviews (respondent triangulation). The surveys were to be distributed, by email, by the researchers (instead of having them distributed by the employer or the works council), to guarantee confidentiality. However, in some cases, the manager or employee representative was not willing to provide us with the

(9) A member check is a form of respondent feedback and validation whereby, in the present case, the first draft of the case report was sent to the participants for correction and additional information.

email addresses — not so much for privacy reasons, but because the workers were already overburdened with surveys (such as employee satisfaction surveys). In the cases where we could send the surveys to the workers, response was very poor. The decision was then made to give up on the idea of respondent triangulation. In a limited number of case studies, an on-site tour complemented the interviews, but in most cases this was not feasible for lack of time.

Key informant interviews

In addition to the case interviews, we conducted interviews with five key informants: a policy advisor from the Federatie Nederlandse Vakbeweging (FNV; Dutch trade union confederation), a policy advisor from the VNO/NCW (the main employers' organisation), a works council trainer who specialises in OSH and two labour inspectors with ample knowledge of works councils. We also tried to contact a professional from an occupational health service (*arbodienst*); however, despite several attempts, none of the *arbodiensten* even replied to our request to participate.

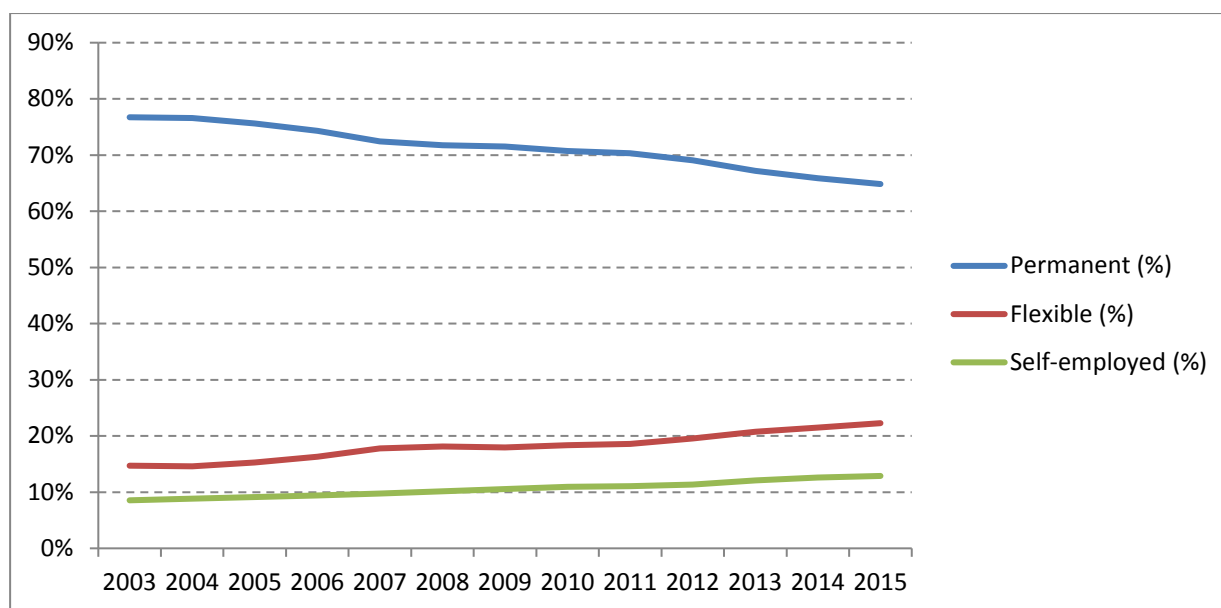
1 Context

This chapter outlines the context of worker representation in the field of occupational safety and health (OSH). First, it describes the Dutch system of labour relations, both at national level and at sector and company levels. Section 1.2 then describes the OSH policy of the Dutch government as well as the main features of Dutch OSH legislation. Clearly, neither the labour relations system nor OSH policy develops within a vacuum. Therefore, section 1.3 outlines the main features of the broader socio-economic context, as far as they may influence the arrangements for managing OSH at various levels.

1.1 General description of labour relations in the Netherlands

The Netherlands has roughly 17 million inhabitants and has a working population of nearly 9 million people (6.9 million employees, 1.4 million independent workers and 604,000 (6.8 %) unemployed) (Centraal Bureau voor de Statistiek (CBS), 2016). This means that, relatively, the Netherlands has the second largest working population in Europe (after Sweden) (CBS, 2016, p. 58). A characteristic of the Dutch labour market is the large proportion of the working population who work part-time (less than 35 hours a week): half of the working population is working part-time (25 % of men and nearly 80 % of women) (CBS, 2016, p. 58). Another characteristic is the rising number of self-employed workers (*zelfstandig zonder personeel*, ZZP) and of workers with a 'flexible' contract (that is, those who are not employed permanently) (see Figure 1).

Figure 1: Rise of non-standard contracts



Source: CBS Statline (2016), Arbeidsdeelname; kerncijfers (Labour participation; key figures).

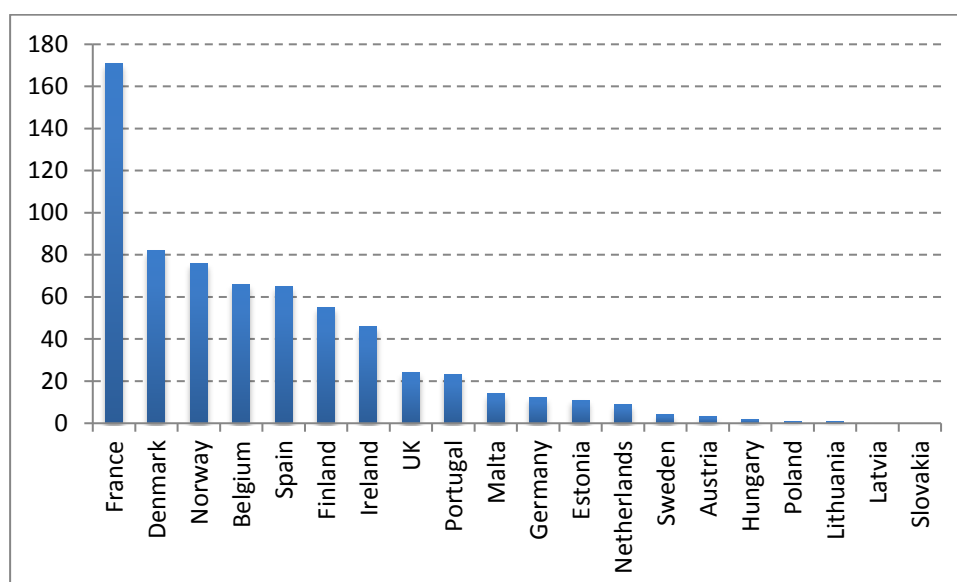
Table 3: Flexible work on the rise

Number of workers (* 1.000)	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Working population	7,416	7,391	7,440	7,558	7,777	7,974	7,977	7,900	7,906	7,963	7,905	7,848	7,932
Permanent	5,690	5,659	5,626	5,616	5,635	5,720	5,703	5,585	5,560	5,501	5,309	5,172	5,143
Flexible	1,092	1,079	1,137	1,231	1,385	1,444	1,431	1,450	1,471	1,556	1,639	1,688	1,767
Self-employed	634	653	677	711	757	810	843	865	875	906	957	988	1,022

Source: CBS Statline (2016), Arbeidsdeelname; kerncijfers (Labour participation; key figures).

Clearly, the composition, or rather decomposition, of the labour force may influence the representation of workers at the company level, which is the main focus of this research. However, it may also affect labour relations at national and sector levels as well; in the Netherlands, it could erode the so-called *poldermodel* of labour relations. Poldermodel is the name of a long-standing tradition of active and, mostly, consensual cooperation between government, employers' organisations and trade unions at various levels. The main body for cooperation at national level is the *Sociaal-Economische Raad* (SER; Social and Economic Council of the Netherlands), a tripartite advisory body to the Dutch Minister for Social Affairs (and the Dutch government in general) ⁽¹⁰⁾. At sector level, cooperation is rather consensual as well — notably in the field of OSH (see 1.1.2). As an indicator, the number of strikes is particularly low compared with other European countries (see Figure 1.2).

Figure 2: Number of days lost due to strikes (2009-2013) per 1,000 employees



Source: CBS/ETUI/Eurostat (2015) ⁽¹¹⁾

(10) The SER comprises representatives of employers' and employees' organisations and several Crown-appointed members.

(11) <https://www.cbs.nl/nl-nl/nieuws/2015/18/weinig-stakingsdagen-in-2014>. Also see <https://www.etui.org/Topics/Trade-union-renewal-and-mobilisation/Strikes-in-Europe-version-2.1-January-2015>

One of the pillars of the poldermodel is the rather uncontested role of the Dutch trade unions. Even if the number of trade union members is declining (and the percentage of unionisation even faster, see Table 1.2), and voices are intermittently raised by employers or academics that the trade unions are no longer representative of the working population, public support for trade unions is still significant — even among non-unionised workers (SER 2013, p. 17, Hooftman 2016, p.83) ⁽¹²⁾. This also applies to the role of trade unions at national level (such as in the SER and the bipartite Stichting van de Arbeid) as well as at sector level.

Table 4: Number of members of trade unions (thousands)

Year	Members of trade unions	Employees	Unionisation (%)
2003	1,920	6,783	28.3
2005	1,899	6,763	28.1
2006	1,866	6,847	27.3
2007	1,878	7,020	26.8
2008	1,898	7,164	26.5
2009	1,887	7,134	26.5
2010	1,870	7,035	26.6
2011	1,875	7,031	26.7
2012	1,849	7,057	26.2
2013	1,792	6,947	25.8
2014	1,762	6,860	25.7
2015	1,734	6,909	25.1

Note: the percentage is calculated on the basis of employees and not on total working population (that is, including self-employed). If these are included, unionisation drops to roughly 21 %.

Source: CBS Statline (2016), Leden van vakverenigingen; geslacht en leeftijd (Members of trade unions; gender and age)

At company level, the role of trade unions is rather marginal (van het Kaar et al., 2006, p. 88). In most companies, at least in the larger ones, the prime ‘partner’ of the employer is the works council, which is rather uncontested by employers (see Table 1.3) (Visee et al., 2012) ⁽¹³⁾. In companies with over 100 employees, roughly 9 out of 10 employers have set up a works council and over 60 % of all employees are now represented by a works council (or other forms of formal representation, see 1.1.1). As the trade union density is much higher among works councils (estimates running from 45 % to 60 %) (van het Kaar et al., 2006, p. 88; Sapulete and van Witteloostuijn, 2015a) than among regular workers, this could imply that trade unions are able to exert significant influence at company level in this way as well. However, in practice, the influence of trade unions on works councils appears to be rather weak —

(12) Admittedly, the cited studies particularly addresses the role of trade unions in negotiating collective labour agreements.

(13) The high number of works councils is often seen as an indicator of employer support for this form of worker representation.

notably in the field of safety and health; this is a weakness that is currently recognised by the trade unions (see section 3.4).

In the next section, we shall turn to labour relations in the field of OSH.

1.1.1 Three levels of cooperation in occupational safety and health

The previously mentioned poldermodel also echoes in the Dutch OSH regulatory strategy, which may be considered to be a form of 'enforced self-regulation' (Wilthagen, 1994). Employers and workers are encouraged to enter into social dialogue in the field of OSH, albeit within the framework of Dutch OSH legislation. Social dialogue is considered to have been a rather successful model over the last few decades; in fact, it has been ever since the adoption of the Dutch Working Conditions Act (WCA) in 1980. This act already placed considerable emphasis on the role of the works council (at company level) as well as on social dialogue at national level in the Dutch OSH Council (*Arboraad*, which is now a committee of the Dutch SER). The SER advises on, among other topics, any relevant (proposed) change in Dutch OSH legislation as well as the OSH infrastructure (such as the system of occupational health services, or *arbodiensten*). In addition to the committee on OSH, the SER has a tripartite working group on occupational exposure limits.

At the intermediate, that is sector, level, a rather long tradition of collective OSH agreements exists as part of the collective labour agreements and/or OSH covenants. Since 2007, the OSH covenants have evolved into sector-level OSH catalogues. As the OSH catalogues are quite specific instruments in shaping OSH at company level, this topic will be dealt with in more detail in section 1.1.3.

Nevertheless, even though the Dutch social dialogue on OSH issues is being conducted at three levels, it is the social dialogue at company level that is the most important. At company level, there are three forms of social dialogue. In companies with over 50 employees, the employer is expected to devise the company's OSH policy in close cooperation with the works council, whose members are directly elected by secret ballot from among the persons working in the enterprise⁽¹⁴⁾. The obligation to establish a works council has been complied with by most companies with over 50 employees, but clearly not by all (see Table 5).

In companies with 10-50 employees and for which a works council has not been established, the employer may set up an elected employee representative body (*personeelsvertegenwoordiging*). Even if the employer is not legally obliged to do so, in a practical sense it is necessary if he or she wants to devise a policy concerning the two central issues of working times and OSH. In fact, the legal entity of the employee representative body was specifically introduced in the 1996 Works Councils Act (*Wet op de ondernemingsraden*; WOR)⁽¹⁵⁾ to address issues that were dealt with in the Dutch Working Times Act 1995 and issues that would later be dealt with in the WCA 1998.

Finally, in the smallest companies (fewer than 10 employees), the employer is considered to cooperate with the 'affected' workers. Article 12(3) of the WCA expressly states that the employer must consult affected employees with regard to the risk assessment and evaluation. The employer must also consult the experts referred to in Article 7(1) of Directive 89/391/EEC⁽¹⁶⁾, the external OSH service (see Article 7(3) of the directive) and the panel of experts referred to in Article 8(2) of the directive (first aid, fire-fighting and evacuation). Another legal basis for social dialogue on OSH in the smallest companies can be deduced from Article 35b of the WOR: 'the entrepreneur shall give the persons working in the enterprise an opportunity of meeting with him at least twice each calendar year. He shall also convene a meeting with the persons working in the enterprise when at least one quarter of them submit a request to this effect together with a statement of their reasons for making the request.' This form of participation is called the 'personnel meeting'.

(14) The number of works council members rises with the number of persons working in the enterprise.

(15) The Dutch acronym WOR is used because the English abbreviation WCA is used to refer to the Working Conditions Act.

(16) Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work: 'workers to carry out activities related to the protection and prevention of occupational risks for the undertaking and/or establishment.'

Table 5: Formal participation in the Netherlands

Form of participation	Number of employees				
	10-49	50-74	75-99	100-199	200+
Works council (%)	16	61	70	84	94
Employee representative body (%)	12	11	6	5	1
Personnel meeting (%)	53	21	17	7	3
No participation (%)	19	7	7	4	2
Total (%)	100	100	100	100	100

Works council or employee representatives?	Number of employees		Number of employees		
	10-49	50+	10-49	50-249	250+
Yes (%)	20	74	28	74	94
No (%)	80	26	72	26	6

Sources: Inspectie SZW (2015a); Smulders and Pot (2016).

Note: the findings of Visee et al. (2012), which are based on a self-report survey among employers, are clearly more favourable to employers than the findings of the labour inspectorate (Inspectie SZW), notably in companies with 10-49 employees.

The next section offers a more detailed description of the legal position of the works council and the employee representative body.

1.1.2 Company level: the works council and employee representative body

In the Netherlands, worker participation at company level is first and foremost to be understood as a *formal* consultation of works councils or the employee representative body in companies with 10-50 employees. The legal position of both types of consultative bodies is mainly grounded in the WOR. Similarly to the WOR, the WCA contains some provisions on worker participation, notably in Article 12. It is worth noting that, even if compliance with the WCA is enforced by the labour inspectorate, the competence of the inspectorate does not extend to compliance with Article 12 or with the WOR. This will be addressed in section 3.3.3 in more detail.

The legal provisions in the WCA and the WOR rightly implement all provisions on the basis of Article 11(2) of Directive 89/391/EEC and, more generally, Directive 2002/14/EC. Both acts, however, also contain some more specific provisions that are relevant to worker participation in OSH; one of these is a 'right of approval' in OSH matters.

Among the general powers, the WOR grants the following:

- a general consultative right and specific consultative rights in the field of OSH (Article 23 WOR, Article 12 WCA);
- a general right to information in all fields and specific rights in the field of OSH (Article 31 WOR, Article 12 WCA, many articles in the Working Conditions Decree);
- a general right to submit proposals to the employer (Article 23 WOR; see Article 11(3) of Directive 89/391/EEC);
- various facilities, such as time off work and a right to specific training (more specific than in Article 11(5) of Directive 89/391/EEC, which speaks of 'adequate' time off work and 'necessary' means to enable such representatives to exercise their rights) ⁽¹⁷⁾;

(17) For example, works council members have a statutory right to five days of training; if they are also a member of the OSH Committee they have right to three extra days of training (Article 18 WOR).

- a right to set up a special OSH committee (Article 15 WOR);
- legal protection against any disadvantage as a result of a worker's involvement in worker participation — notably dismissal (Article 21 WOR) ⁽¹⁸⁾; and
- a right to consult the labour inspectorate (Article 12 WCA).

In addition to these general statutory powers, however, the Dutch WOR contains some specific powers that clearly exceed the minimum requirements in the aforementioned Directive 89/391/EEC and Directive 2002/14. The most powerful provision, in Article 27 of the WOR, is a right of approval concerning specific rulings in the field of OSH (in some cases even a right of veto, including when concluding a contract with an OSH service). A second powerful provision, which clearly goes beyond the minimum requirements in Directive 2002/14/EC, is the right to appeal. Article 27(5) of the WOR states that 'Any decision as mentioned in paragraph (1) taken without the endorsement of the Works Council or the permission of the judge of the sub-district sector shall be invalid if the Works Council submits a written appeal to the entrepreneur.' Even more, paragraph 6 of the same article states: 'The Works Council may request the judge of the sub-district sector to order the entrepreneur to refrain from any actions which would involve implementing or applying an invalid decision as mentioned in paragraph (5)'. The entrepreneur, however, 'may request the judge of the sub-district sector to declare that the Works Council's appeal against the decision on the grounds of invalidity, as mentioned in paragraph (5), is unfounded'.

In addition, in issues that fall under the advisory powers granted in Article 25 of the WOR, 'the Works Council has a right to lodge an appeal with the Enterprise Section [*Ondernemingskamer*] of the Amsterdam Court of Appeal [*Gerechtshof*] against a decision by an entrepreneur ... if the decision does not accord with the advice of the Works Council' (Article 26 of the WOR). The advisory powers mainly pertain to economic and strategic policy, but may also serve to mitigate (negative) OSH side effects of these policies (for example, investments in new technologies ⁽¹⁹⁾ or restructuring). However, the number of times that the right to appeal in matters of safety and health is used should not be overestimated: violations of the procedures in the WOR hardly ever lead to appeal procedures (Popma, 2003, p. 181).

The actual use of statutory powers in practice will be dealt with in Chapter 2.

In anticipation of the presentation of the empirical findings, it is noteworthy that formal consultation is only part of worker participation in OSH; direct participation of workers may be at least as important, notably in so-called toolbox meetings or in direct contact at shop floor level. Social dialogue, however, is not limited to formal procedures on the basis of the WOR. On the basis of the interviews from the case studies and our own experience as works council trainer and journalist, it is clear that informal contacts between works councils and management are much more frequent than the two-monthly meetings in the board room.

I have to attend consultation meetings rather often, because of questions by the works council. But the works council may also approach me directly. The lines between me and the works council are short and informal if possible and formal if necessary.

Management representative at Crossroads

Frequent informal contact may even add to the effectiveness of the formal procedure.

When I meet up with the director, informally, the issues at hand are mostly already settled before we even put it on the formal agenda. More often than not, it does not even reach the works council because it has already been taken care of by the managers.

Works council member at Glasswool

(18) See also Article 11(4) of Directive 89/391/EEC.

(19) See also Article 6(3c) of Directive 89/391/EEC.

1.1.3 Sector level: occupational safety and health catalogues, occupational safety and health covenants and collective labour agreements

Clearly, collaboration in the field of safety and health at company level should take place within the framework of Dutch OSH legislation, which roughly consists of the WCA, the Working Conditions Decree (the implementation of European OSH directives) and the Working Conditions Regulation.

Ever since the turn of the century, however, both employers and the Dutch Ministry of Social Affairs have claimed that current legislation is too restrictive and instead opted for more tailor-made solutions in the field of OSH to be agreed between employers and workers or their representatives. This approach was also championed under the Dutch presidency of the Council of the EU during the first half of 2016.

This idea of tailor-made OSH policy through social dialogue is the essence of worker participation at company level through works councils and has been a well-established practice in the Netherlands since the early 1980s (Popma et al., 2002). However, over the last 15 years, the Dutch government has also launched various projects that entail stronger participation by trade unions at sector level — notably the establishment of OSH covenants ⁽²⁰⁾ and, more recently, the development of so-called OSH catalogues. These catalogues, which are to be jointly developed by employers and trade unions at branch or sector level, describe the ways in which employers can comply with broad target regulations drawn up by the government (notably the Working Conditions Decree). The OSH catalogues could be compared with the Codes of Practice and they include OSH standards resulting from (scientific) research, sector guidelines and measures that have, in the past, contributed to safe and healthy working conditions (best practices). The catalogues mainly serve as a reference guide for employers and works councils at company level, aiding them in their cooperation and thereby facilitating self-regulation. In addition, the labour inspectorate uses the catalogues as their point of reference during inspections.

Because of this role of the OSH catalogues, all catalogues have to be submitted to the inspectorate for a so-called 'marginal test'. The role of the labour inspectorate in testing the OSH catalogues, however, is rather restricted (hence the notion of 'marginal' test).

This test only addresses the following four questions:

1. Do the parties that have drafted the catalogue represent the employers and workers to which the catalogue is addressed?
2. Is the catalogue readily available to all employers and workers?
3. Are the measures in the catalogue not in breach of legal provisions in that sector? ⁽²¹⁾
4. Are the measures adequate means to meet the broader goals of the general legal stipulations?

This rather restricted role for the labour inspectorate is deemed necessary so that it does not interfere with the social dialogue at branch level, ensuring tailor-made catalogues.

Currently, some 180 OSH catalogues have been concluded by the social partners. However, as was evidenced in the most recent evaluation of the WCA, two-thirds of all catalogues merely contain very general solutions such as 'use personal protective equipment, devise an OSH policy, or instruct workers on the risks' (van Vliet and Venema, 2011); this conclusion echoes previous findings on the use of OSH covenants and specific agreements on OSH in collective labour agreements (Popma, 2009a, p. 88) ⁽²²⁾. In addition, a recent study states that two-thirds of all employers have never heard of OSH catalogues and of the remaining third only 56 % claim to be 'fully aware' of their contents (Inspectie SZW, 2015a, p. 41). Further information on the role of OSH catalogues in practice will be set out in section 3.4.

Another way of involving workers at sector level is the involvement of trade unions in the development of sector level risk assessment tools. Risk assessment is a statutory obligation for all employers in the

(20) Kamerstukken II (Parliamentary Documents), 1998-1999, 26 375, nr. 1

(21) This question does not really involve the notion of 'state of the art', as is intended both in Article 3 WCA and in the policy considerations underpinning the catalogue strategy.

(22) A government-funded evaluation of the use of OSH covenants showed that covenants mainly addressed issues such as reintegration of sick employees, rather than the improvement of working conditions. In addition, the content of collective labour agreements that contain OSH issues mainly focus on general measures (conduct research) and most of the agreements do not extend beyond what has already been established in Dutch legislation.

European Union (see Article 6(3) Framework Directive 89/391/EEC); however, a specific Dutch provision is that the employer should enlist an expert (notably the OSH service, currently on the basis of Article 14 of the WCA) to help draft such a risk assessment. At the turn of the century, however, the Ministry of Social Affairs deemed it helpful to support the development of sector-specific risk assessment tools. The use of these tools was also promoted by means of a legal provision: if a company with fewer than 25 employees uses the risk assessment tool developed for its own sector, the company no longer needs to ask the advice of an OSH professional (which is also prescribed by the WCA), provided that the trade union at sector level has approved the sector-specific tool and that the tool has been checked by an OSH professional ⁽²³⁾. If the trade union does not approve the tool, companies may still use it but must also involve OSH professionals for independent advice.

These risk assessment tools are used quite regularly: of the companies that have performed a risk assessment, one-third of the smaller companies were exempt from the obligation to have the risk assessment checked by a professional (Inspectie SZW, 2015a, p. 139). However, some concern may arise about the quality of the risk assessment tools. In an interview with two key informants, conducted as part of the current research, both were quite critical of the added value of various risk assessment tools that have been developed to assist (smaller) companies, as many of these do not address all relevant issues or risk categories and many do not solicit worker participation (see also section 3.4). This conclusion aligns with previous findings (Popma, 2013b).

One explanation for the poor quality of some of the instruments could be that they are the result of negotiation between employers and trade unionists, which may lead to having to compromise on which issues to incorporate. In addition, according to one of the key informants, not all trade unionists are very knowledgeable on OSH issues (and not all of them ask for the help of OSH specialists from the union). A third, somewhat milder, explanation for the fact that the instruments are sub-standard is that, for reasons of efficiency and effectiveness, it was agreed upon in tripartite negotiations to focus on the 'top five' risks in branches, especially for small and medium-sized enterprises (SMEs); as a result many of the risk assessment tools (as well as the 'sector catalogues') focus on those top five risks only.

1.1.4 National level: poldermodel

As indicated earlier, the poldermodel, — the involvement of employers' organisations and trade unions in policy development — is one of the key elements of the Dutch approach to OSH. The two main policy-making bodies at national level are the tripartite SER and the bipartite Labour Foundation. The more important of these two, the SER, has set up a special committee on OSH as well as a sub-committee on occupational exposure levels (in the field of dangerous substances). Over the last decades, the SER (and its predecessor, the OSH Council) has been involved as an advisory board during each revision of the OSH legislation or specific subjects in the field (such as an assessment of the system of OSH services in the Netherlands or absenteeism).

Even though the social partners often pride themselves on the constructiveness of the poldermodel and their ability to reach agreements, it is striking that in the field of OSH the process rarely ends in unanimous advice. The employers' organisations are quite decided in their mission to cut all red tape in this field and to stick to employers' prerogative in OSH at company level (notably as concerns the position of OSH services; SER, 2014). In the mid-1990s, under a politically liberal Minister for Social Affairs, this led to a system geared towards self-regulation, which, fundamentally, has not changed since. More recently, however, both parties seem to be more in agreement on one major issue, the need for more occupational exposure levels at European level (Musu et al., 2016).

The Labour Foundation, which too is a consultative body, mainly informs employers (and workers) about safety and health issues, for example through OSH catalogues and psychosocial risks. In some cases, the foundation issues guidance documents or launches websites. One of the most elaborate of these is the guidance document on fighting work-related stress, which implemented the European Framework Agreement on Work-related Stress ⁽²⁴⁾. One of the more recent developments is the covenant on 'healthy weight', which the parties of the Labour Foundation signed in 2014 as part of a joint approach to promote 'sustainable employability' or 'age-aware human resource management' (HRM).

(23) Article 2.14b of the Working Conditions Decree.

(24) European Framework Agreement on Work-Related Stress, 8 October 2004.

1.2 Occupational safety and health policy and legal context

Safety and health were among the first issues that spurred labour law in the last quarter of the 19th century; they became ever more important after the first piece of OSH legislation, the Child Labour Law of 1874. Over the period of a century (1874-1980), the Netherlands witnessed an increasing number of laws being adopted that were more or less aimed at safeguarding the safety of workers. In addition, the number of labour inspectors rose almost continuously. It was the age of 'command and control', in which the government protected the workers against the whims of their employers by means of detailed laws.

In the mid-1970s, however, a breach took place in OSH policy of the Dutch government — as was also the case in various other European countries (Popma, 2002). Starting from a general notion of self-regulation (Wilthagen, 1994), the 1980 WCA introduced a system that centred around a general duty of care on the employer's side, resulting in a change from means-oriented to goal-oriented legislation (one of the reasons of this shift was the understanding that organisational and technical changes happen too fast to be accommodated in law). The WCA not only required the employer to safeguard the safety and health of his or her workers, but also, in order to achieve this general goal, to put a safety and health policy in place, which is to be devised in cooperation with the works council or, where no works council was present, directly with the employees. In addition, the WCA demanded that larger companies (with over 500 employees) hire the expertise of safety and health services ⁽²⁵⁾.

The strategy of self-regulation was deemed feasible because workers no longer needed the government's protection and were now considered able to fend for themselves. Specifically, at company level, the interests of the workers were to be defended by the works councils, which were introduced in the early 1950s and are now established in most enterprises (at least in the larger ones). The 'balanced' social dialogue at company level justified the retreat of the state and its institutions (notably the labour inspectorate) at shop floor level. The Dutch system of 'self-regulation' paralleled similar approaches in the Scandinavian countries, where it is referred to as 'internal control' (Kommunal- og Arbeidsdepartementet, 1987; Gaupset, 2000), as well as in the UK (Robens Committee, 1972); in their philosophy, these countries were parents to the Framework Directive 89/391/EEC (Walters, 2002, pp. 39).

Nevertheless, some changes were required during the implementation of the Framework Directive following its adoption. One of these changes, in 1994, was the introduction of the obligation to perform a risk assessment. This is now common in all EU Member States. More characteristic of the Dutch situation, however, was the simultaneous introduction of financial incentives to help reduce absenteeism. The 1994 reform of the WCA was labelled 'TZ/Arbo' (meaning Absenteeism Reduction/OSH), indicating that fighting absenteeism was deemed more important than dealing with safety and health. The Absenteeism Reduction Act implied that either the first two or six weeks of sick leave were at the employer's own expense (instead of being covered by social security schemes); this period was stretched to one year in 1996 and even to two years in 2003. The idea behind introducing an 'own risk period' was that this would encourage employers to invest more in prevention, as prevention would help bring down work-related disease and hence costs for employers. In addition, this strategy was meant to prompt employers to invest more in hiring the expertise of *arbodiensten* (OSH services).

However, this cost-benefit approach backfired nearly immediately. First, employers did not invest more in preventive measures, but instead took refuge in risk insurance — especially the smaller companies. Second, it soon became apparent that employers did try to reduce absenteeism by means of better safety and health; however, this was done by risk selection — the number of pre-employment medical examinations, as part of job application procedures, rose immediately after 1994 (CTSV, 1995). For this reason, the Dutch government issued new legislation (Medical Examinations Act 1998), which prohibited pre-employment examinations.

A third side effect of the 1994 reform of the WCA was a shift in the organisation of OSH services. Whereas before 1994 larger companies in designated sectors were obliged to enlist company health services, paid for by a social premium, after 1994 all companies were expected to bring in expertise — this, however, was under the conditions of a free market. Where the former company health services were independent, prevention-oriented services in specific branches, the new commercial OSH services were largely dependent on short-term contracts with the employer and were mainly fighting for a share

(25) The WCA also laid down the legal structure of worker participation at national level, in the figure of the previously mentioned Arboraad (OSH Council); see Article 40 of the 1980 WCA.

of the market that focused on reducing absenteeism by means of individualised medicine. This earned them the unfriendly nickname of ‘absentee hunters’.

The lack of independence of the OSH services, as well as their focus on individualised absenteeism, has been a thorn in the side of the trade unions ever since the inception of the OSH services in 1996 (Popma et al., 2001; de Zwart et al., 2011). In 2014, the Dutch Minister for Social Affairs asked the SER for advice on how to improve the system of health services. The Council did not reach an agreement, notably because the employers continued to rely on a market system of commercial services rather than a sector approach financed by means of social premiums ⁽²⁶⁾. Nevertheless, new changes in the WCA were adopted by the Dutch Parliament quite recently, which implies, among other things, that instead of limiting the role of the occupational health physician to reduce absenteeism, OSH specialists should be more involved in prevention ⁽²⁷⁾. Nevertheless, the fundamental question of how OSH services should be financed remains unaltered.

In summary, the Dutch policy in the field of OSH has increasingly moved towards self-regulation. The OSH legislation places a duty of care on the employer (Article 3 WCA, in conjunction with Article 7:658 of the Dutch Civil Code) as well as the obligation to draft an OSH policy (Article 3 of the WCA) on the basis of a risk assessment (Article 5 WCA). In addition, the WCA establishes that the employer has to consult the employees in devising OSH policy. Article 12(1) of the current version of the WCA states that ‘the employer and employees will cooperate in the implementation of the working conditions policy’ and that ‘the employer shall consult the works council or worker representation body.’ The legal powers to assist the works council have mainly been established in the WOR (see section 1.1.2) and should, in principle, be sufficient to accommodate social dialogue on OSH at company level (Popma, 2003). In fact, the right to appeal (see section 1.1.2) is a firm statutory power that is quite uncommon in other Member States

In addition, the use of expertise is institutionalised by the obligation to enlist OSH experts (Articles 13, 14 and 14a of the WCA) and to use proper risk assessment methodologies. As a last resort, self-regulation may be enforced by making an appeal to the labour inspectorate. Once again, in principle, the Dutch system appears to be in line with the philosophy and the provisions of Framework Directive 89/391/EEC ⁽²⁸⁾. Chapters 2 and 3 will discuss the way this works in practice.

The above system does not actually, in comparison, differ much from other EU countries, as all Member States must comply with Framework Directive 89/391/EEC (even though the directive does leave ample space for ‘accordance with national laws and/or practices’). Specific to the Dutch situation, however, is the rather individualised approach to absenteeism and ‘lasting employability’ or ‘age-oriented HRM’ ⁽²⁹⁾ (*duurzame inzetbaarheid*), which, to some extent, is the result of the cost–benefit approach that was introduced in the mid-1990s. The focus in absenteeism policy is clearly on reducing the sick leave period by means of stricter sick leave control or by helping the employee to cope with the disease (return-to-work coaching and reintegration) rather than tackling the work-related causes (HR Navigator, 2016) ⁽³⁰⁾. The use of the systems approach that is implicit in the Framework Directive seems to be decreasing, even if the recent change in the WCA has put a bit more emphasis on prevention.

Another characteristic of OSH policy since the mid-1990s is the incessant call from employers for further deregulation. This is exemplified by their recent thwarting of a thorough change in the system of OSH services, which the trade unions had suggested should be paid for through sector funds rather than directly by employers (SER, 2014) ⁽³¹⁾. The resistance to regulation has been a common thread through the employers’ approach over the last 20 years (SER, 1997), as is their unwillingness to compromise in the SER on other issues relating to safety and health.

(26) In fact, one of the last remaining sector approaches (in the construction industry) was terminated in 2015 because the employers no longer wished to pay for the funding of the bipartite foundation Arbouw (OSH in construction industry).

(27) The changes in the WCA will be effective as of July 2017.

(28) A historical note: initially the Dutch WCA was found to be in breach of the directive, as the WCA made it possible to hire external *arbodiensten* instead of first organising internal expertise. This was found to be in breach of Article 7 of the directive (ECJ C-441/01, 22 May 2003). In 2005, the WCA was amended to make sure that the employer will first look into the possibility of organising internal expertise, giving more emphasis to the so-called prevention worker (the Dutch implementation of Article 7(1) of the directive).

(29) This theme also ranks very high on the agenda of training sessions for works councils (see section 2.4).

(30) Of OSH services, 75 % of the turnover is in the field of absenteeism and only 15 % in the field of prevention (which also includes individualised approaches).

(31) The idea of the trade unions was meant to increase the independence of OSH professionals. The employers in the SER, however, effectively opposed such an independent role for the OSH services.

A recent exception to this concerns the need to revise legislation in the field of carcinogenic and mutagenic substances — notably to establish occupational limit values for 50 of the most troublesome substances (Musu et al., 2016, p. 21) ⁽³²⁾.

The call for deregulation, however, has not only been voiced by employers; the Dutch government is also clearly in favour of deregulation in the field of OSH. In fact, the Dutch government is a leading champion of deregulation in OSH at the European level as well and is notably advocating a shift from prescriptive regulation to goal-oriented regulation ⁽³³⁾. One of the reasons that the Minister for Social Affairs is advocating such a shift is the presumed success of the OSH catalogues and the alleged fact that the tailor-made approach has stimulated Dutch employers and employees to exceed the minimum standards of the Dutch legislation; however, apart from some best practices, there is little or no empirical underpinning to this. Implicitly, the Minister thereby encourages the success of the cooperation between employers and worker representatives in reaching tailor-made agreements. The Dutch government has not expressed a need to strengthen the position of workers in this respect. It is quite clear that the current system of worker representation on OSH issues will not be changed. In fact, worker representation is considered to be one of the pillars of the Dutch system of self-regulation. A thorough overhaul of Dutch OSH legislation in the near future is not very probable either.

1.3 Broader socio-economic characteristics and context

Clearly, the Dutch policy regarding OSH has not developed in isolation; this is even less the case in regard to workplace practices in safety and health. Some contextual factors that may be of influence are the broader socio-economic developments in the Netherlands. Some of the developments that may exert influence on the Dutch system are the dominance of some production sectors, the rise of the number of flexible workers (both fixed-term employees and the rapidly rising number of self-employed workers), the extent of restructuring of work, internationalisation of management and complexity of value chains, and changes in management style (notably in the field of safety and health management).

1.3.1 Production structure: change in sectors and composition of workforce

Over the last few decades, the Dutch production structure has changed rather fundamentally in several ways. First, there has been a clear shift from an industry-based economy to a services economy. Over the last 40 years, the contribution of industry to the Dutch gross national product (GNP) has declined from 20 % to 10 % and currently only 10 % of all workers are working in industry. This also applies to the construction sector: between 1995 and 2014, employment in construction fell by about 50 % (UWV, 2014), and only 5 % of all workers are working in construction. Services now make up for nearly 80 % of all employment in the Netherlands.

Table 6: Employment in the Netherlands (2014), times, 1000

Sector	Employees	Self-employed	Total	Total (%)
Agriculture	95	117	212	2.4
Industry	793	38	831	9.6
Construction	298	161	459	5.3

(32) To be clear, this position of the employers is mainly motivated by the strategic interest of the Dutch chemical industry in establish a level playing field with other countries in the EU.

(33) Letter from the Dutch Minister for Social Affairs to Commissioner Andór, 3 September 2013, concerning the public consultation on the new OSH policy framework. It is even more obvious in the letter of the Dutch Minister for Social Affairs to Commissioner Thyssen, 9 July 2015, concerning the Dutch opinion on the EU OSH acquis, which calls for a goal-oriented approach instead of a more prescriptive approach.

Sector	Employees	Self-employed	Total	Total (%)
Trade, transport, and hotel, restaurant and catering	1,898	269	2,167	25.0
Information and communication technology	221	39	260	3.0
Commercial services	1,531	461	1,992	23.0
Government, education and health care	2,144	248	2,392	27.6
Culture and recreation	240	124	364	4.2
Total	7,220	1,457	8,677	100.0

Source: CBS (2015), p. 35

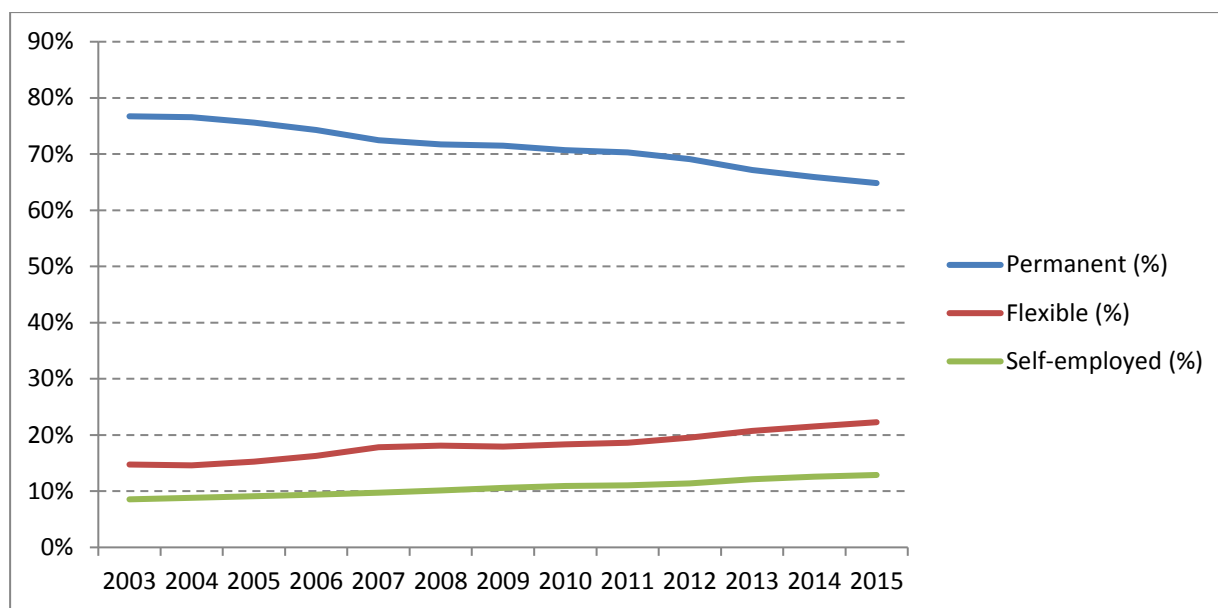
Clearly, the changes in the sectoral employment will affect the kind of risks that workers are exposed to. In construction and industry, safety risks are more common than in education or financial services (Douwes, 2014, p. 93). In education and in information and communication technology, on the other hand, the percentage of workers suffering from burnout is significantly higher (Hooftman et al., 2016, pp. 77-78). Therefore, a change in production structure may lead to the emergence of risks that were previously considered to be only a minor problem, thus leading to a change in the agenda of works councils.

In addition, the changes in production structure may have an impact on compliance with the legislation on worker representation. Companies in the service sector and transport clearly show lower compliance with the WOR (Visser et al., 2012, p. 7), meaning that in these sectors formal worker representation is less developed. Whereas both the services and transport sectors are on the rise, this may affect compliance.

The same goes for the change in terms of employment: in the Netherlands, there has been a clear shift from permanent to fixed-term contracts as well as a rise in the number of self-employed workers (now totalling well over 1 million). Over the last decade, the percentage of fixed-term contracts has increased with 50 % (from 15 to 22%), notably because newcomers to the labour market are not very likely to obtain a permanent job ⁽³⁴⁾. It is quite clear that flexible workers seldom have a voice in works councils or other forms of worker representation — partly because Article 6 of the WOR allows passive voting rights only after one year of employment: ‘Persons who have been working in the enterprise for at least 12 months shall be eligible to stand for election.’ Clearly, the rise of non-standard contracts (see Figures 1.3 and 1.4) has its effect on worker representation as well as in the field of OSH.

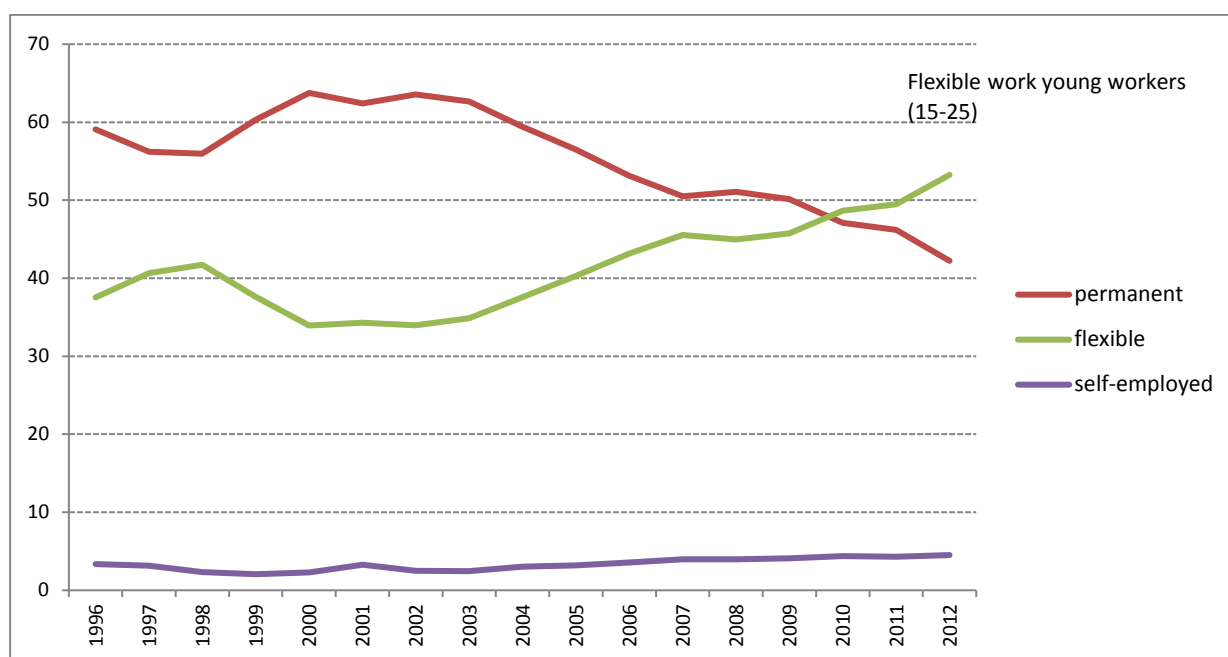
(34) Of all workers under 25 years of age, 53 % have a fixed-term contract (Chkalova et al., 2015, p. 139). Of all workers who are starting work now, 60 % have to start on a fixed-term contract (van Gaalen et al., 2013, p. 15).

Figure 3: Rise of non-standard contracts



Source: CBS Statline (2016), Arbeidsdeelname; kerncijfers (Labour participation; key figures).

Figure 4: Rise of non-standard contracts among young workers



Source: CBS Statline

Another characteristic of the workforce that may have an impact on worker representation is the change in company size. There are more elaborate types of worker representation in larger companies, whereas in SMEs participation may be more direct, as will be seen in section 3.5. A change towards more SMEs, which according to the employers are the 'job motor of the Netherlands', would therefore affect worker participation in OSH as well. However, there has been no such shift towards SMEs. Even if SMEs,

comprising between 1 and 100 employees ⁽³⁵⁾, make up more than 99 % of all enterprises (which would be an increase of more than 50 % over the last 10 years), they would still only employ 37 % of the working population (in full-time equivalents). This number has not risen in recent years. It turns out that the rising number of companies can be attributed completely to the increase in companies employing just one worker. There has been a slight decrease in the number of companies employing over 50 workers, but that does not merit the conclusion that the Netherlands has been struck by a fundamental change in the production structure — at least not as a result of changes in the company size.

Table 7: Number of companies in the Netherlands

Number of employees	2007	2016	Growth
1	624,685	1,185,170	+90
2	153,370	141,245	–8
3-50	194,265	195,915	1
50-100	7,170	6,495	–9
100-250	4,015	4,335	8
250-500	1,580	1,475	–7
500+	1,535	1,415	–8
2+	361,935	350,880	–3
50+	14,300	13,720	–4

Source: CBS Statline (Bedrijven; Bedrijfsgrootte en rechtsvorm/Companies: Size and legal form)

Table 8: Labour volume full-time equivalent)

Full-time equivalents (thousands)					
Company size	2010	2011	2012	2013	2014
1-10	837 (14.1 %)	796 (13.4 %)	782 (13.3 %)	767 (13.3 %)	770 (13.4 %)
10-100	1,444 (24.4 %)	1,469 (24.8 %)	1,429 (24.4 %)	1,384 (24.0 %)	1,376 (24. %)
100+	3,643 (61.5 %)	3,660 (61.8 %)	3,656 (62.3 %)	3,622 (62.7 %)	3,594 (62.6 %)
Total	5,924	5,925	5,867	5,773	5,740

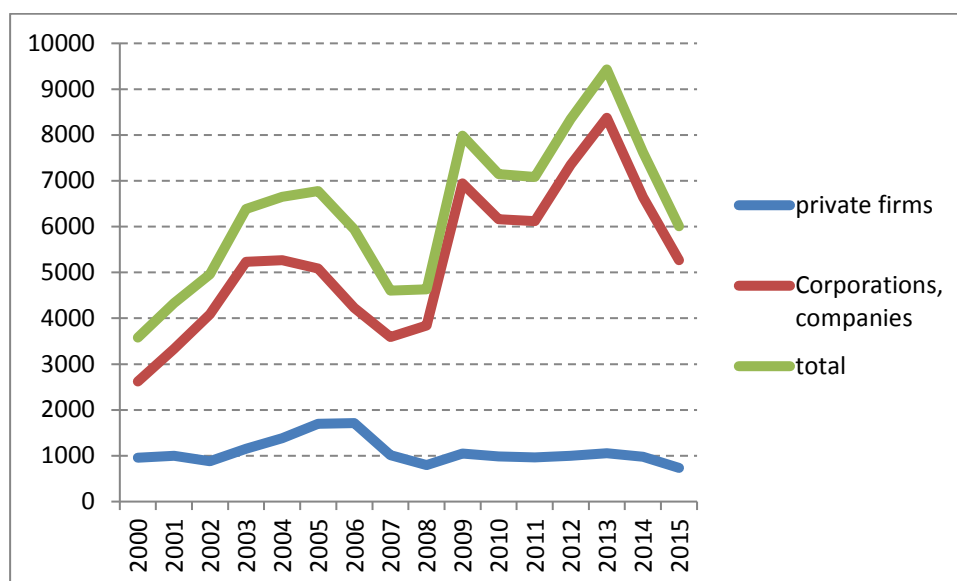
Source: CBS Statline 2016 (Werkgelegenheid; Geslacht, dienstverband, bedrijfs grootte/ Employment; Gender, company size)

(35) This definition does not conform with the official definition of SMEs in Article 2 of the Annex of Recommendation 2003/361/EC, which defines the category of micro, small and medium-sized enterprises (SMEs) as enterprises that employ fewer than 250 persons (with an annual turnover not exceeding EUR 50 million and/or an annual balance sheet total not exceeding EUR 43 million). The CBS, however, adheres to different thresholds.

1.3.2 Restructuring and increasingly complex production chains

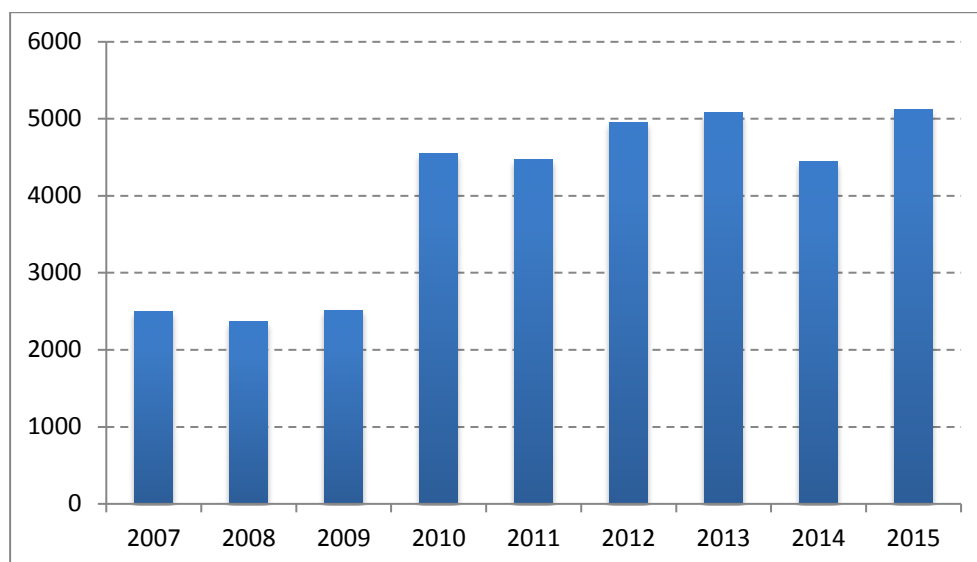
Another way in which the production structure may influence worker representation in OSH is through the increase in the number of companies that are more or less permanently in the process of restructuring. This is not only as the result of bankruptcy (see Figure 5) or austerity measures, but also as the result of mergers and takeovers (these are very much on the rise; see Figure 6), cost cutting and restructuring. In times of restructuring, it is clear that works councils have to focus their attention on the effects of restructuring and less on OSH.

Figure 5: Bankruptcies in the Netherlands



Source: CBS Statline (Uitgesproken faillissementen; Kerncijfers/Number of bankruptcies; key figures.)

Figure 6: Mergers and takeovers in the Netherlands



Source: CBS Statline (Bedrijven; Fusies en overnames, bedrijfsgrootte, rechtsvorm, bedrijfstak)

Nevertheless, OSH may go hand in hand with restructuring. Most obviously, restructuring may cause various psychosocial effects, such as job insecurity or task ambiguity, which may jeopardise health (Kieselbach et al., 2009). These health effects could (or should) be taken into account by the works council in its advice on the basis of Article 25 of the WOR. In practice, works councils often do use their advisory power to proactively guard against these health effects (Popma, 2003, p. 186). On the other hand, restructuring production processes at work floor level could, instead of being the cause, be the result of a risk assessment that manifests safety and health problems which may then urge the company to reorganise processes in order to tackle these problems. A 2012 survey by the Dutch labour inspectorate found that 27 % of companies where work pressure was considered a problem resorted to a 'change in work processes or job content' as one of the measures to remedy the problem (Inspectie SZW, 2013, p. 79).

Nevertheless, even if restructuring could in some cases be seen as a chance to draw attention to OSH issues, in general it appears that restructuring is more of a barrier to than a driver for effective worker representation.

Another barrier to effective worker representation could be the increasingly complex structure of various companies (or value chains). Particularly in cases where it is unclear who is, in the end, responsible for safety and health management, this may have a negative impact on effective worker representation in this field too. On the other hand, while carrying out our research we found some examples of companies where a takeover by a foreign owner increased the attention that was drawn to safety and health matters.

1.3.3 Occupational safety and health management systems

In the late 1980s, the concepts of systematic occupational safety and health management (OSHM) and an occupational safety and health management system (OSHMS) — emblematic of the new OSH strategy — gained increased popularity among the main stakeholders of OSH (van Stolk et al., 2012). Even though we cannot dwell on the precise content of these kinds of systems, notably their conceptual differences (van der Voort, 2007), or on the presumably positive outcomes of these systems of OSHM (Hendriksen, 2010; van Guldener et al., 2013), it is clear that the introduction of such systems may influence both the safety and health of workers and their room for active participation (Frick, 2011). Therefore, this merits some attention.

The systems of OSHM have not passed unnoticed in the Netherlands. Over the last few years, there has been a trend of Dutch companies applying for certificates on the basis of OSHM standards, such as the ISO-14000 series (environmental management), OHSAS 18001 and the Dutch system of *Veiligheids Checklist Aannemers* (VCA; Safety Checklist Contractors). In 20 years' time, the number of ISO-14001 certificates awarded to Dutch companies rose from fewer than 100 in 1996 to 2,318 in 2015. Between 2010-2015, this increased by 59 %. The number of companies that have been awarded an OHSAS-18001 certificate has nearly doubled over the last five years (currently 373 companies, with over 1,400 establishments) (SCCM, 2016). Furthermore, there are some 400³⁶ companies that have to comply with the Dutch implementation of the Seveso Directive³⁷, which entails that they should have an OSHMS in place. A further relevant development has been the rise of the Dutch system of VCA (see box), which now harbours over 13,000 companies with VCA certificates in the Netherlands (SSVV, 2016).

What is VCA?

The abbreviation VCA stands for *Veiligheids Checklist Aannemers* (Safety Checklist Contractors). This certificate, based on ISO 17021, gives businesses that hire services from subcontractors, notably for maintenance or construction, some degree of certainty about the safety standards and the safety track record of these subcontractors.

The VCA initiative dates back to the late 1980s, when a handful of (petro)chemical enterprises in the Netherlands exchanged information about the quality of their contractors. This very quickly resulted in a common checklist entitled VCA.

(36) Some overlap may exist here.

(37) Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities, now repealed by Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances (Seveso III)

However, it was only after 1994, when they and others had created Stichting Samenwerken voor Veiligheid (SSVV; Foundation for Cooperation on Safety), that VCA officially became a certificate. It is issued by SSVV on the basis of audits by inspectors who belong to formally accredited certifying bodies. The members of SSVV — some 20 sector organisations (the precise number tends to fluctuate) — adhere to the principle that their own members will hire only VCA-certified contractors.

VCA comes in three levels; this is because VCA is no longer limited to economic sectors that are connected to high-risk (petro) chemical businesses, which require the highest standards. One of the standards that all firms have to meet to become VCA-certified is that all their employees must have a VCA certificate, to show that they have basic safety knowledge and awareness. Now, 1.5 million people now have this certificate, out of a working population of nearly 9 million active workers; only the driving licence is more commonly accepted proof of ability in the Netherlands. The certificate is also issued to pupils at schools for vocational education where VCA lessons are part of the curriculum.

After the introduction of VCA, the number of incidents resulting in sick leave, injuries or even death in workplaces decreased rapidly, to a third of its previous level (on the basis of self-reporting, both before and after the introduction of VCA). However, around 2004, the numbers started to flatline again. SSVV and its member organisations are now actively promoting a variety of campaigns, trainings and other behavioural programmes, in an attempt to bring levels further down again. They acknowledge that a formal checklist has its limits in influencing day-to-day behaviour, and they promote the idea that firms should now focus on more abstract factors such as safety culture. Nevertheless, the need for safety certificates and corresponding diplomas is widely accepted. In the Netherlands, providing VCA training is an industry in itself.

Although the VCA checklist does pay attention to (long-term) health and environmental issues as well, it is fair to say that most businesses use it to focus on immediate safety. That may not be because of the system itself, but because VCA is almost automatically seen as the domain of specially trained safety experts (*veiligheidskundigen*), even when the system itself demands demonstrable commitment from top management.

Section 3.5 further details how VCA may be an important driver of safety and health, but may also be a barrier to effective worker representation in the field of OSH.

2 Worker participation in practice

This chapter and the next present the empirical findings on worker participation in the Netherlands, both on the basis of the interviews conducted in 21 Dutch establishments and with relevant key stakeholders, and on the basis of other empirical sources in the Netherlands. First, Chapter 2 details current practices as well as the OSH effect of worker participation (with some further elaboration on emerging themes). As the research seeks to find information on the role of worker participation in OSHM, the findings have been grouped according to a simple OSHM stage process model (see Figure 7). Chapter 3 then addresses some of the key elements contributing to or hampering effective worker participation in OSHM.

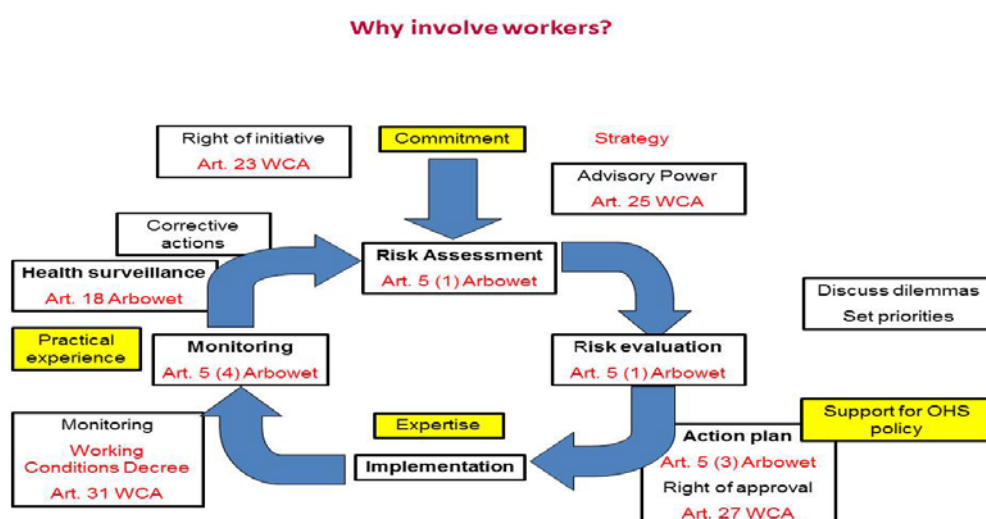
2.1 Worker participation as part of occupational safety and health management

Dutch OSH legislation and policy, notably the WCA, not only implements the legal requirements of Framework Directive 89/391/EEC, but also the core elements of a general OSHMSs approach (Paul 2010).⁽³⁸⁾ The basis of OSH policy is provided by:

- a thorough **risk assessment** (in Dutch terminology: 'risk inventory and evaluation', Article 5(1) WCA), which should then lead to
- an effective, SMART ⁽³⁹⁾ **plan of action** to ward off risks (Article 5(3) WCA)
- to be **implemented** and then
- monitored and assessed on its effectiveness as well as topicality in the light of the latest advances in technology and scientific findings (**checking and corrective action**, in the terminology of OHSAS 18001 under Clause 4.5, also see Article 5(4) WCA).

In all of the stages, workers can play an important role. Their role, in nearly all stages, is also backed by statutory powers assigned to the works council/employees representative body (see Figure 7). The following subsections will present the findings of the fieldwork according to each stage, which are, in some cases, supplemented by a short description of the legal powers as well as some empirical findings from other sources.

Figure 7: Risk management cycle and worker participation



(38) Jeannette Paul, Arbo-informatieblad 1: Arbo- en verzuimbeleid (OSH Information Brochure 1: OSH and absenteeism policy), Den Haag: Sdu. The approach in the brochure clearly also uses elements of the so-called Deming Circle (Plan-Do-Act-Check) and the OHSAS 18000 series.

(39) The acronym SMART stands for Specific, Measurable, Attainable, Realistic, Timely

2.1.1 Commitment

An essential requirement of OSH Management is at least a minimum level of commitment on the part of management. The same goes for worker participation: if the employer does not want to involve workers in OSHM, it is going to be rather difficult to achieve anything in this respect (Popma, 2003) ⁽⁴⁰⁾. However, even if OSH is not really a management priority, workers (representatives) could play an important role in addressing OSH issues, notably by signalling dangerous situations or other shortcomings (or even by informing the labour inspectorate), pointing out the costs of poor occupational health (notably the costs of absenteeism), linking safety and health with operational excellence and craftsmanship, or drafting a formal initiative on the basis of Article 23 of the WOR.

In the 21 case studies, it was found that most, if not all, management representatives did in fact show some sort of commitment both to safety and health issues and to worker participation. This comes as no surprise, as the companies involved had volunteered to participate in the European Survey of Enterprises on New and Emerging Risks (ESENER) in the first place. Therefore, the findings might be painting too rosy a picture of the situation in the Netherlands ⁽⁴¹⁾.

In some of the case studies, it was clear that commitment to OSH was fully engrained in the core beliefs of management. In many of the cases, commitment was also part of just doing good business. Especially in businesses that were handling dangerous substances or which had set up some sort of OSH certification scheme, the statutory demands (Seveso Directive, public health requirement, food safety management systems) or demands by clients (ISO, VCA certificates) ⁽⁴²⁾ exerted a clear influence on the level of 'commitment' of management.

On the basis of the interviews it is safe to say that in most companies the employer was willing to adopt a safety and health approach even without involvement of the workers. Reasons included being intrinsically motivated, simply wishing to comply with legal obligations or being 'forced' either by their clients (as was often the case in high-risk activities, which require VCA certificates or other forms of safety management systems) or by their mother company (as was the case with Dutch Delhi, RollingPress, Shipeneer).

To me, safety awareness is priority number one.

Management representative at Barrel

Four years ago, our company was taken over by the current owner. You can tell by the fact that safety is now a top priority, and always the first item on the agenda of each consultation with the works council. This is due to the American emphasis on liability. Under the Dutch management safety was important too, but we were not going on about it all the time. Only if something happened. Now, a safety manager of the Dutch head office is making a safety tour each month

Management representative at Flour & Powder.

The main reason for obtaining VCA was that one major client demanded it. Even if workers initially joked about safety, they are now much more keen on safety and are also better able to ponder the question why things go wrong.

OSH manager at Shipeneer

In the smallest of companies (for example Villekula and Shipeneer), OSHM was often rooted in the notion that the workers considered themselves to be some sort of family or were at least in close proximity to all colleagues in the team.

(40) In addition, the 'effectiveness of safety representative activity [is] contingent on the willingness of managers to engage with participative arrangements and prioritise OSH' (Walters et al., 2005, p. 36).

(41) In the Netherlands, it is clear that many employers do not really live up to the standards of OSH Management (for example Inspectie SZW, 2015a (Labour Inspectorate), which evidences that half of all companies do not perform risk assessment or have a plan of action; one-third do not have emergency procedures, a notification system for grave accidents or a contract with an OSH service; only one-quarter of companies comply with all four core requirements in Dutch OSH legislation; and one-seventh comply with none. In addition, Popma (2003) found that many employers did not maintain a very high standard of worker participation. In over one-third of all companies, all statutory rights of works councils are frequently or systematically disregarded (and, admittedly, these were companies that had installed a works council, whereas many had not).

(42) Companies in the process industry often require subcontractors to have VCA certificates.

We just want everyone safe back on the couch every evening

Management representative at Shipeneer.

My criterion for safety is simply 'is it safe for my family?'

Manager/owner of the family-owned Shelter Lodge, whose family lives on the premises.

2.1.2 Risk assessment and evaluation

The risk assessment, clearly, is one of the essential elements in effective OSH Management ⁽⁴³⁾. In addition, it is one of the main instruments for worker representatives to play an important role in OSH. The risk assessment, in the Dutch context, could be useful to worker representatives in various ways; these will be described shortly. On the other hand, worker involvement in the process of risk assessment and risk evaluation may add to good OSHM in various ways too.

First of all, worker participation in the process of risk assessment may help employers to be better informed on risks that are not easily detected by OSH experts (such as unsafe 'use in practice' of machinery, the effects of work pressure or the early onset of health effects as a result of the use of chemical substances). It was found previously that worker participation in the process of risk assessment leads to a more profound and more extensive risk assessment — notably in the field of 'invisible' risks, such as psychosocial burden and repetitive strain injuries (Popma, 2003; Popma, 2009a, p. 93). Second, workers may have a different perspective on what they consider to be 'risky', thereby enriching the quality of the risk assessment process. Third, on the basis of their knowledge of day-to-day practices, workers may signal to the experts that unsafe behaviour in practice may be at odds with safety procedures.

The interviews conducted as part of the current research found clear evidence of the added value of worker participation in risk assessment.

You mean safety rounds? That's a good point. One day, our shift leader and our plant manager said: we always see the same things. Shouldn't one of the workers accompany us? We brought that up during the next safety audit, and one of the works council's members came along during the inspection round.

Employee representative at Flour & Powder

However, in various other case studies the contribution of workers was rather weak or non-existent. A most straightforward example in the current research was the situation at Screelec.

Sure we have a risk assessment. I fill it out personally. During our relocation, I adapted it. The worker representative doesn't know this. She's only a part-timer.

Manager at Screelec.

Concerning risk assessment, the key informants of the labour inspectorate too expressed the impression that current practice is rather diverse. In some of the cases, works councils are quite active in this field, while in other companies the works council is completely inactive. Nevertheless, as the current research does not aim for statistical generalisability, it suffices to give some examples of what and how worker participation *might* contribute to OSH.

Worker participation comes in many shapes and sizes, ranging from the previous example of actively taking part in more or less systematised safety audits and in 'hazard and operability' (hazop) teams, to bringing up issues during toolbox meetings, signalling issues through complaints boxes or to the works council in contact with its constituency, and formal participation on the basis of the works councils' right of approval (Article 27 of the WOR). The case studies gave a wide range of examples of the ways in which worker participation may take place, but also of managers circumventing formal procedures.

(43) It may be noted, however, that, even in the absence of a risk assessment as indicated in Article 5 of the WCA, companies can still have effective OSHM, as is evidenced in the various 'Arbo in Bedrijf' reports by the Dutch labour inspectorate.

To start with the latter: works councils have a formal right to approve the way in which risk assessment is to be conducted and specific measures that may result from the findings of the risk assessment (see section 2.2.3). It was found in several of the interviews that the use of the right of approval is being complied with as it should be.

Before every workplace visit, the works council is consulted and asked for approval. We're also being informed about the findings.

Works council member at Twin City

On the other hand, there were various interviews during which the researchers found that the works council or worker representative did not know that they, in fact, have a right of approval in these matters or even that they have a formal role to play in the process of risk assessment (Shipeneer, for example). This was also evidenced previously in a large survey among works councils (Popma, 2003), which found that many works councils are systematically bypassed in formal OSH matters. This is the case not only in the first phase of risk assessment (taking stock of risks, or the 'risk inventory' phase as it is called in the Netherlands), but probably even more so in the second phase ('risk evaluation': weighing risks as a means of prioritising).

We also found little or no evidence that works councils are going about this latter step of the process in a systematic manner. Examples of setting priorities with active involvement of the constituency, for example, were not found during the research. In addition, the works councils did not really have other systematic prioritising strategies.

Even if the number of case studies in the field study does not merit any clear-cut conclusions in this matter, it appears that, especially in companies in which OSH is highly professionalised as part of legal obligations in response to major safety risks, formal involvement of the works council is looked upon as somewhat superfluous. On the other hand, in such companies the direct involvement of workers appears to be better organised. We conducted interviews in various enterprises with a fairly systematised approach to safety and health management, and in these companies the use of practical worker knowledge in safety and health matters appeared to be genuine.

Direct worker involvement in risk assessment can take various forms. In the interviews, we encountered several examples of direct worker involvement, such as distributing surveys among workers as part of a more general risk assessment tool (Grammar School, Hopital, see also section 3.4) or distributing employee satisfaction surveys (Glasswool, Chrisanity, MentaWorks, Shelter Lodge; all mainly geared to psychosocial risks). The most common way to elicit risk information from workers appears to be during weekly or monthly toolbox meetings, where workers are specifically asked to report on risks, near misses or malpractice that they are aware of ⁽⁴⁴⁾. This way of generating risk information is standard procedure in companies that are VCA or ISO certified (among others, Shipeneer, Moon Chemicals).

In Moon Chemicals, a company without formal worker representation and which falls under the scope of the Seveso Directive, risk identification is part of the daily safety briefings as well as of the monthly health, safety and environment (HSE) meeting. This meeting is attended by the plant manager, the OSH manager, laboratory staff and a representative of each production shift.

According to the OSH manager, 'if workers have something to report, most of the times this is met with immediate follow up'. Moon Chemicals also uses incentives to motivate workers to report incidents. According to the employee that was interviewed, 'Reporting incidents is encouraged by handing out "plus points". This is more effective than penalties. ... Also, the workers need to feel safe to report incidents, and to my knowledge most of them do.'

Interestingly, the role of signalling potential risks is not limited to risks or incidents on the premises of Moon Chemicals itself. According to the OSH manager 'employees also report on incidents that have occurred in other companies and that may be relevant to our own company'.

(44) According to one of the key informants, in VCA the toolbox meetings have dwindled down to short talks about a safety subject and are performed more because the certificate requires them to be held than because of a willingness to communicate and learn.

World Class Manufacturing is aimed at eliminating losses, where accidents also count as a loss. The system relies heavily on involvement of employees, who report risks themselves. Management not only stimulates but also rewards this, with team dinners. The first nine months of the year, employees reported 2,900 incidents. One advantage is that our employees, unlike the safety experts, notice everything — including things that happen maybe once a year.

Management representative at Glasswool

In one case, Barrel, the risk assessment is being conducted by a committee consisting of two OSH specialists from the company and two members of the works council.

In some cases, the works council itself plays a proactive role in gathering risk information. The works council of Twin City holds a regular Café d'OR ⁽⁴⁵⁾, where they can meet with their constituency.

On many occasions, workers have brought up issues concerning health risks during our Café d'OR, notably in the field of work load. We then transfer these signals to management, and if need be discuss them with the director in our formal meetings.

Works council member at Twin City

In other companies, the works council is even more active in the field of risk assessment and conducts safety rounds itself (Dutch Delhi, Barrel). This is done not only to collect risk information, but also to be actively present at shop floor level, which is seen as a means to bring the works council's existence to the attention of workers. This 'public relations' use of active risk assessment at shop floor level was also one of the reasons behind launching the project 'Participatory Risk Assessment' (Popma, 2009a). Safety and health are important to many workers, thereby making active involvement of the works council at shop floor level an appealing approach to get into contact with its constituency; this is one of the reasons why the trade union FNV recently revitalised the instrument of participatory risk assessment.

The works council's members are in the factory on a regular basis. You know who's the opinion leader, so that's the one to talk to. We are granted the opportunity to do so, even if we don't work in the factory ourselves.

Works council member at Barrel

In addition, it was suggested that workers sometimes feel more at ease signalling incidents or risks to worker representatives instead of to OSH professionals. This is an indication that active involvement of worker representatives in risk assessment may yield more information than just having the risk assessment performed by OSH specialists would.

I think many employees even might prefer turning to the works council over addressing me. The employees really know their way to the works council. This will reap valuable information concerning day-to-day practices on the shop floor level. In this respect, worker participation clearly adds to OSH management, because the works council's members really know what's going on in practice and there are many more works council members than there are OSH professionals. More eyes on the shop floor will give you a better view of what's going on.

OSH manager at Hopital

The use, then, of active participation in risk assessment for worker representatives may not only give a broader overview and more thorough understanding of risks (which is also useful to the employer, see section 2.2), but result in more visibility at shop floor level too.

This, to repeat this issue, is one of the reasons that the FNV has put more emphasis on the importance of safety and health as a spearhead for trade union activism.

(45) A nice pun: OR is the Dutch acronym of works council (ondernemingsraad) and means 'gold' in French.

Over the last decades, and specifically after the adoption of the revised Working Conditions Act in the mid nineties, OSH has become an expertological issue, according to the key informant of the FNV. This has taken the 'political' edge off of OSH policy.

The expert approach to OSH may have to be reconsidered. In general, I am not very keen on the current 'systems approach' in OSH, the informant claims. Employers misuse the cycle of risk assessment and plans of action to postpone urgently needed measures and put OSH on the back burner.

Within this context, there is specifically one role where the FNV informant sees the main contribution of workers' reps: they do have a potent role in putting very specific risks on the agenda, and demand immediate, clear cut preventive action. This may look to be a short-termed approach, but I think this is the only way to get OSH higher on the agenda. It's the employer's obligation to then fit these short-term actions into long-term preventive policy — and not to postpone action.

Key informant at FNV

Nevertheless, even if we have found various examples of active worker participation in risk assessment, there are also some examples where the workers are not involved at all (see section 3.4) or where the works council takes a reactive stance at best.

As a works council, we get to see the risk inventory and the plan of action. But we do not contribute much to it. We limit ourselves to checking its contents

Works council member at Chrisanity.

The risk assessment was drafted by an external expert. The input of the works council was limited to evaluating if there were things missing. This was not the case

Works council member at Crossroads.

We requested the specialist to better gear the risk assessment to the level of the various departments in our company. So he did.

Works council member at NoFer

In some case studies, the role of formal worker participation (that is, using the right of approval) was found to be non-existent and some of the interviewees did not even know that the works council or employee representative body had a role to play in this respect. Nevertheless, this would seem to be rather exceptional, as the works council is consulted in 89 % of all companies that had drafted a risk assessment (Popma, 2003, p. 169).

In the smallest of companies, the contribution of formal worker participation in risk assessment is virtually non-existent: only one out of three small companies have even performed risk assessment (Inspectie SZW, 2015a, p. 113), and formal worker representation is nearly non-existent. Direct participation of workers in the smaller company cases almost invariably took the form of bringing shortcomings to the manager's attention during informal day-to-day contacts at shop floor level or during regular team meetings, which are not specifically intended to address OSH issues (Villegkula, Shelter Lodge). A specific case was Vigirail, where *all* workers are involved in risk assessment — or in OSHM in general.

All our workers contribute to OSH matters, and very satisfactorily. But then, we are of course always concerned with safety. These are safety people

Manager at Vigirail.

The use of toolbox meetings is also not uncommon in some of the smaller companies without formal workers' representation, which puts workers in the smallest of companies in a position to contribute ideas actively to improve safety and health in the workplace. However, we gained the impression that, in most businesses where toolbox meetings were held, these were more safety instruction meetings than real two-way communication.

2.1.3 Plan of action and implementation of specific measures

After having compiled a risk inventory, it is time to set priorities (risk evaluation), analyse the root causes of the risk, devise adequate preventive or control measures, draw up a plan of action and implement the proposed measures. In the Netherlands, this is called the 'plan of action'. The obligation to draft such a plan (Article 5(3) WCA) is, of all statutory obligations in the WCA, the one violated most often: only 38 % of all companies have drafted such a plan (Inspectie SZW, 2015a, p. 7). Even in companies that have conducted a risk assessment, one out of four has not taken the next step to take the actions found to be necessary during the risk assessment phase (ibid, p. 22). It is mainly the SMEs that are negligent in this field. By contrast, of all companies with over 100 workers, 93 % have drafted a plan of action.

On the other hand, it was found in research by the labour inspectorate that in the majority of cases (62 %) the designated employees responsible for assisting the employer in OSH matters (the so-called 'prevention workers', as indicated in Article 13 WCA/Article 7(1) of Directive 89/391/EEC) do not discuss protective measures with the works council or even with the affected workers (Inspectie SZW, 2015a, p. 37). Apparently, in these cases the plan of action is discussed on a formal level rather than on a more practical level.

This appears to be at odds with the ESENER-2 findings as well as with the findings in our own case studies. Even though, in the interviews, the researchers hardly came across any examples of works councils that actually contributed to analysing root causes or devising protective measures, it was found that, in most cases where workers directly participated in risk assessment (or at least in signalling incidents), they also had ample opportunity to bring up suggestions on how to improve safety and health. The role of workers in an 'operational' sense, then, appears to be accepted rather widely as a valuable tool for collecting ideas and maybe also for gaining support for implementing measures.

The business programme Drive to Success (Dutch Delhi) integrates various management tools and addresses various key performance variables, such as safety, quality, delivery, costs and 5S.⁽⁴⁶⁾

More than before, we enter into contact with our employees as concerns performance and responsibilities. In the field of safety, for example, this means: are the protective measures sufficient, but also are they being used? It all revolves around 'ownership'.

Manager at Dutch Delhi.

In addition, the ESENER-2 survey indicates that measures are often designed in collaboration with the workers. Therefore, involvement of workers, both in devising the plan of action through formal worker representation and in designing specific measures through worker participation, appears to be rather common practice.

Table 9: ESENER Q258b: if measures have been taken following a risk assessment are the employees usually involved in their design and implementation?

Yes	No	That depends on the type of measures	No answer	Total
80 %	11 %	8 %	1 %	N = 1,105

Note: asked only of establishments that regularly carry out workplace risk assessment (after answering 'Yes' to Q250).

Nevertheless, in many of the case studies we got the impression that 'protective measures' were often geared more towards behaviour-based approaches than towards a more fundamental approach, based on a thorough analysis of root causes and aiming for a truly preventive risk management. When investment in specific protective or curative measures was deemed necessary, this hardly caused any problems in most of our cases — notably with respect to clear-cut safety risks. This appears to be slightly

(46) 5S is the name of a workplace organization method that uses a list of five Japanese words: seiri, seiton, seiso, seiketsu, and shitsuke. In English, it stands for Sort, Straighten/Set in order, Shine, Standardize and Sustain. It is part of Kaizen quality management (practice of continuous improvement).

more favourable than the findings of the labour inspectorate, where in many cases risks were identified, but employers were negligent in taking measures.

Table 10: Identification of risks and take-up of measures (% companies)

	Risk is an issue (% of companies)	Adequate measures taken (% of companies where risk is an issue)
Heavy lifting	27	76
Visual display unit (VDU) work	44	69
Repetitive movements	44	66
Postures	15	68
Non-ionising radiation	7	81
Falling from heights	14	77
Noise	15	83
Dangerous substances	21	70
Carcinogens	10	58
Work pressure	12	69

Sources: Inspectie SZW (2013, 2015a).

In addition, especially in the case of more ‘intangible’ issues such as work pressure or psychosocial risks in general, we encountered various cases in which it was mentioned that these risks are too difficult to address properly. This is not in line with previous findings, which indicate that the OSH effect of worker representation is strongest in the field of ‘intangible’ risks (Popma, 2009a).

Clearly, involvement of workers is not limited to devising the plan of action as indicated in Article 5(2) of the WCA. In some cases, workers were involved in specific projects that did have an impact on safety and health, including cases without formal employee representation. One fine example is the case of Country Cooperative.

From 2009 to 2015 there were frequent consultations regarding a major rebuilding of the core of the factory, during which installations were relocated and expanded, and the entire layout and routing was reshuffled. Altogether the operation cost over EUR 1.4 million.

Consultation on the project started at the initiative of one of the operators. I had already planned the whole operation when he approached me for the first time, and he said that I should give it a second thought. At first I was not very enthusiastic, but in fact the way we have rebuilt the factory is actually his plan — and very different from how I had planned it to be. A week after the operator came to me, I discussed things with my board and they were enthusiastic, also because it was a plan emanating from the work floor level. The board came up with extra money to do research. All revisions have had a major impact, and during the process all steps were discussed involving all operators. Clearly, they also addressed health and safety issues. For example, they discussed where to locate stairs, platforms and windows. At the end, we've found some very good solutions, including for things that had been bothering me too

Management representative at Country Cooperative.

Therefore, even if workers are not involved through formal representation in steering the plan of action as part of the obligatory risk assessment, workers in small companies may be, and actually are, involved in devising clear-cut measures to improve safety and health — even if they do not have the formal right of approval as works councils do on the basis of Article 27 of the WOR.

2.1.4 Monitoring and corrective action

Within the cycle of risk management, monitoring plays an important role. Dutch OSH legislation, too, lays down various legal requirements concerning measurement and monitoring, notably when working with chemical substances or in relation to occupational noise. Furthermore, Article 18 of the WOR imposes a duty upon the employer to give employees the opportunity to undergo a medical examination at regular intervals (see also Article 14 of Directive 89/391/EEC). The findings of both these medical examinations and statistical information on absenteeism within the workplace may give cause for corrective action. In addition, the employer should take stock of occupational accidents (Article 9 of the WCA).

Both Article 31 of the WOR and various specific provisions in the Working Conditions Decree grant works councils the right to information in these matters (van Leeuwen and Popma, 2016). The employer (or external OSH specialist) is expected to report anonymous data at group level to the works council. In most cases, information on absenteeism and occupational accidents appears to be shared openly with works councils: 89 % and 70 %, respectively. Information on occupational diseases is rarer and is shared less often (Popma, 2003, p. 170).

A thorough analysis of absenteeism, findings of medical examinations and monitoring reports could help the worker representatives to address shortcomings in safety and health and call for corrective action. Statistics should be considered a means to instigate organisational learning, as is done in various systems of quality management.

In the interviews, we encountered various examples of reporting, notably in companies that hold a certificate on the basis of OHSAS or ISO (Dutch Delhi, Moon Chemicals, Glasswool), VCA (Barrel, Audire, Shipeneer, Vigirail) or Hazard Analysis and Critical Control Points (HACCP; Flour & Powder), or in companies that are obliged to report on incidents on the basis of Dutch legislation (Hopital, Villekula, Shelter Lodge) ⁽⁴⁷⁾. Some of the companies also mentioned the use of critical performance indicators as a means to steer processes.

In these cases, reporting and analysis appears to be embedded in regular workplace management. In addition, the general picture was that the information was also shared with worker representatives. Nevertheless, the case studies also gave the impression that the analysis of the data appears to be the domain of specialists, not of worker representatives. The key informant of the FNV was also of this opinion, as has been stated earlier.

OSH has become an expertological issue. This has taken the 'political' edge off of OSH policy.

Key informant FNV

Nevertheless, incident reporting by workers appears to be a very useful tool within systems of OSHM. This topic has already been addressed previously in relation to risk assessment (section 2.1.2). Another important role appears to be that workers (and worker representatives) are able to indicate when workplace practices differ from the measures that have supposedly been taken to enhance safety and health.

This does, however, require a culture in which everyone feels safe to report any incidents.

Registration of (near) incidents is very important to us. There's a special committee to monitor these incidents, and the results are fed back in each team meeting. The registration is built on incident reporting by employees. The willingness to report could and should be better, though. This is an explicit policy target, including a plan of action. People tend to not report a (near) incident if they have the feeling that they have done something wrong themselves that may make

(47) These ways of reporting are clearly complementary to the legal obligation to report occupational accidents to the labour inspectorate on the basis of Article 9 of the WCA.

them responsible. But it is our express policy that people do report these cases too, because without people doing so we can't improve things.

Management representative at Chrisanity

It is important that workers understand that the analysis of incidents is not a matter of 'pointing at the guilty ones', but an instrument of continuous improvement.

Worker representative at Moon Chemicals

Another role for works councils could be to monitor compliance with legal orders issued by the labour inspectorate. As part of its legal powers, the WCA gives the inspectorate the authority to issue warnings or a 'compliance order' specifying how the employer must comply with one or more specific legal provisions. The works council (or other representatives) are given a copy of the warning letter or the compliance order.

Normally, the inspector will return after a specified period for a compliance check (re-inspection). Over the last years, the time period for re-inspection has been greatly stretched from the legal terms (mostly three months) to one year. In the meantime, works councils might play a role of 'shop floor' inspector, informing the inspectorate if the employer is tardy with taking the required actions. However, according to me the works councils do not keep close watch — quite the contrary: if we have come along and issued specific measures, works councils tend to sort of lean back and wait until the inspector eventually returns to the premises.

Key informant at labour inspectorate

We do not have a works council or employee representatives. Instead, we have an annual meeting, with direct consultation of all parties involved: the board of the cooperative, management and all workers. The main issue is the annual report. But anyone may bring up OSH matters, too. In practice, though, this does not happen too often

Manager at Country Cooperative

2.2 The occupational safety and health effect of worker participation

In this section, we present findings on the effect of worker participation in OSH. Previous research has already indicated that worker participation does, in fact, yield substantial benefits in terms of reduced workplace injuries and diseases, as well as greater compliance with safety and health regulations ⁽⁴⁸⁾. In regard to the Netherlands, the main findings on the OSH effect of worker participation have also been presented previously, in Popma (2009a, pp. 85-103). In the present research, these previous findings have been elaborated on by means of the 21 case studies as well as by interviews with key informants. The findings are presented according to the five steps that have been set out in the previous section.

2.2.1 Commitment

As has been noted earlier (see also section 3.1), *commitment* to safety and health is the main precondition for both effective OSHM and worker participation in safety and health — not only the employer's commitment but that of workers as well.

In the interviews, we encountered few or no striking examples in which the worker representatives were actually very effective in convincing the employer to commit to a safety and health management approach. As indicated in section 2.1.1, most of our cases showed employers willing to be active in safety and health.

Nevertheless, even if the 21 cases all showed willing employers, it was clear that worker participation may play a role in the employer paying more attention to OSHM. Even if works councils seldom use their formal right of initiative to put OSH matters on the agenda (Popma, 2003, pp. 165ff), the cases did contain examples of more or less informal initiatives. An example is the works council of Hubbers:

(48) For an overview of case studies see Reilly et al. (1995) and Milgate et al. (2002).

In the field of health and safety, we have recently taken some initiatives. For example, we have asked the director to install an obligation to wear safety vests on the premises, for use outside of the footpaths. Also, there were members of the management team that were riding their car in places where it was prohibited. That has changed now.

Works council member of Hubbers

Nonetheless, the interviews, previous research and the experience of the researchers indicate that the works council does not really play an important and *proactive* role in stimulating OSH commitment within companies. Instead, the works councils mainly play a rather *reactive* role in the sense that OSH is primarily deemed to be the responsibility of the employer and OSH experts. The use of the formal right of initiative (Article 23 of the WCA) is quite rare (Popma, 2003, p. 165).

On the other hand, the works councils or other worker representatives informally signal specific issues that need attention and in most cases the employer takes these signals seriously. However, actually, this is more a matter of raising awareness concerning specific risks (see section 2.2.2) than really of strengthening commitment. Therefore, the 'OSH effect' of worker representation in actually encouraging employers' commitment should not be considered too strong. If the employer is not committed to safety and health, workers (and representatives) may resort to a more activist approach, for example by informing the labour inspectorate, by calling in the trade unions or by going on strike, but these strategies are used only rarely (see section 3.4) (Popma, 2003, p. 217).

2.2.2 Risk assessment and evaluation

Previous research indicates that worker participation in risk assessment clearly adds to the quality of risk assessment. In 2003, Popma found that, in companies where works councils had been consulted by the employer on risk assessment, the labour inspectors considered the risk assessment to be geared to the actual risks in the company more often than in companies that did not — significantly so in smaller companies (Popma, 2003). Secondary analysis of the 2006 *Arbomonitor* also revealed that it was not significant in larger companies, but was significant in smaller ones ($p < 0.001$) (Popma, 2009a).

The main effect appears to derive not from formal consultation *on* but from direct participation *in* risk assessment (Popma, 2009a). However, only one-third of all small organisations actively involve employees in risk assessment (Heijink and Warmerdam, 2004). In most organisations, risk assessment remains the task of the employer, specific staff members or an OSH specialist. Workers at shop floor level appear to be only marginally involved in risk assessment (Bos and Engelen, 2005).

The picture that arose following the interviews appears to be somewhat rosier. Furthermore, it should be stressed that involvement in risk assessment as indicated in Article 5 of the WCA (Articles 6 and 9 of Directive 89/391/EEC) is just one of the means of generating worker participation. As a result of the interviews, it has become clear that the main effect of worker participation can be found in day-to-day practices, signalling very concrete shortcomings and incidents. In addition, the added value from worker participation may be found by critically assessing the work of OSH specialists ⁽⁴⁹⁾.

The main effect of worker participation in risk assessment, then, may be threefold:

1. collecting information about risks or incidents, putting the issue of safety and health on the agenda;
2. adding shop floor knowledge to a continuing risk assessment (or other ways of looking for risks or incidents); and
3. checking the quality of the risk assessment as conducted by OSH specialists.

The first, more activist approach of the works council, which is systematically collecting information about risks itself, was not found in our case studies — with the exception of the works council of Dutch Delhi:

(49) Other added values from the active involvement of works councils could be increased visibility and approachability to their constituency, thereby giving a boost to worker participation in general. Workers highly value their health, and OSH could be a pre-eminent tool to have workers understand the use of worker representation (Popma, 2013a).

Our OSH Committee has a focused approach of performing safety tours. We visit different departments every time, and different machines. Partly planned, but also partly in reaction to things that may have happened some place. We also check if workplaces look safe and tidy.

Works council member of Dutch Delhi

The OSH manager of Twin City, who had an outspoken vision on how works councils could contribute to OSH, would really like to see works councils be more active in the field of risk assessment:

Let the works council perform the risk assessment itself, and then have them come up with recommendations. Now it's the expert who performs the risk assessment, and then submits it to the works council. The works council then says whether it's okay or not. But in this way, it will never become something of the workers themselves.

Nonetheless, it is quite clear that works councils have a strong voice in putting issues on the agenda — even if the risk data are not always systematically gathered by the works councils themselves.

Nearly all OSH issues on the agenda are on it because it is us that address them

Works council member at Dutch Delhi

The works council can raise issues within the context of regular items on the agenda, such as absenteeism. But they also bring up specific issues that were brought to its attention by the workers or other signals.

OSH manager at Hospital

Two of the issues that were brought up by the works council of Barrel were air quality and noise. We contacted the Safety, Health and Environment manager, and he is going to measure both air quality and noise level. We think that management should pay attention to these kinds of issues, and that it should communicate that it does so. In that way, people will notice that their concerns are taken seriously.

Works council member at Barrel

The second form of worker involvement, namely adding shop floor knowledge, was quite common in our cases — notably in the companies that organised regular safety or toolbox meetings as part of a systematic approach to OSH (OHSAS, VCA). In this 'operational' sense, worker participation clearly adds to safety and health management and may yield the strongest effect.

The third approach to worker participation, namely checking the quality of the risk assessment, was illustrated by the works council member at MentaWorks:

Our works council has run through the risk assessment, using checklists and the sector's OSH catalogue. We also made a tour, where each works council member had to take at least two pictures of unsafe situations on the shop floor. On the basis of our findings, we concluded that the risk assessment was not in compliance with current legislation. We also found out that the risk assessment looks nice on paper, but was insufficiently known by the workers and the shift leaders.

Works council member at MentaWorks

Relating to this form of worker participation, we also found one OSH manager who would like the works council to be more active.

We try to involve the works council and its OSH Committee as much as possible. But their involvement is still too minimal. This has been marked as a point of action. We could use the joint OSH Meeting to run over the entire process, with all 'lines of defence', repressive scenarios and so on. Then you would have a robust system. But now, the committee is too distanced from the process.

OSH manager at NoFer

In short, even if there is still a lot to be gained, it is quite clear that worker participation in risk assessment may yield valuable information — notably in the more operational sense of bringing information to light

concerning day-to-day safety practices. The case studies corroborate previous survey findings (Popma, 2009a) linking worker representation with a better quality of risk assessment.

Admittedly, however, the role of worker participation in risk assessment is not just bringing workers' information to management, but also vice versa: the findings of risk assessment are of major importance in informing workers. The exchange of information could serve a dual purpose. First, adequate information is the basis for proper consultation of the works council (see Article 12 of the WCA and Article 31 of the WOR). Second, the information could be used more instrumentally, to inform workers at shop floor level about safety and health risks as well as about safe working procedures and other OSH measures.

Based on the ESENER survey, it seems that the first purpose has been achieved: 94 % of safety and health representatives⁽⁵⁰⁾ and 89 % of all works councils have been provided with the findings of the risk assessment. This is in line with previous research in the Netherlands, which found that 90 % of all works councils receive a copy of the risk assessment, if applicable (Popma, 2003, p. 170). Be aware, however, that the vast majority of companies do not have a works council in place and nearly half of all companies do not have a (written copy of the) risk assessment.

Interestingly, one out of three employers do not provide the employees with the findings of the risk assessment. This is not too surprising, given the findings that 27 % of the Dutch employers do not inform their employees about the findings of the risk assessment at all (Inspectie SZW, 2015a, p. 41). Therefore, the instrumental use of risk assessment is underused as well.

Table 11: ESENER Q256: who has been provided with the findings of the workplace risk assessment?

Category of staff	Yes (%)	No (%)	Number of respondents
Management	96	4	1,096
Safety and health representatives*	94	6	540
Works council*	89	11	279
Trade union representatives*	63	37	116
Employees	67	33	1,096

Note: asked only of establishments that regularly carry out workplace risk assessment (Yes to Q250) and responded to Q254 (In what year was the last workplace risk assessment carried out?).

* Asked only of those establishments that had indicated that they had these in place.

In short, then, even if a majority of employers make use of risk assessment to inform their employees, in many companies the informative use of the risk assessment (see Article 10 Directive 89/391/EEC) is not exploited to the full (if at all). The OSH effect of worker participation in the process of risk assessment could therefore be strengthened both during risk assessment and after.

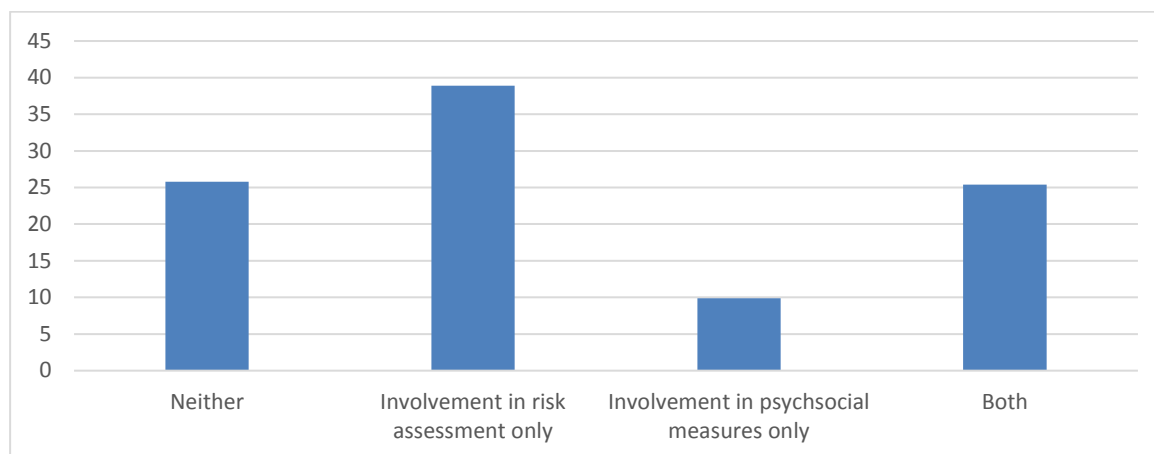
2.2.3 Plan of action and implementation of specific measures

In the Netherlands, the works council has a right of approval concerning the plan of action that should be a part of the risk assessment. According to previous research, this right is used in the majority of companies. However, in about one-third of all companies, the works council is bypassed regularly (Popma, 2003, pp. 178-179).

(50) Note that 'health and safety representatives' as used as a category in ESENER refers not just to elected worker representatives in the strict sense, but probably also to workers who have been assigned the role by the employer.

The findings in ESENER-2 seem to be a bit rosier in this respect. According to the first findings, three out of four Dutch establishments that carry out risk assessments involve their employees in the design and implementation of measures that follow the risk assessment. This was in relation to either involvement after a general risk assessment or involvement in measures to fight psychosocial risks (figure 8).

Figure 8: Proportion (%) of Dutch enterprises reporting worker involvement in the design and implementation of measures taken following risk assessment and measures taken to address psychosocial risks



However, this favourable picture should not be taken at face value. First of all, in ESENER-2, the question on 'involvement' was asked only of those respondents whose establishment had in fact carried out risk assessments, and the involvement in psychosocial measures was asked of those respondents whose establishment had used any of four measures to prevent psychosocial risks in the previous three years. In the Netherlands, however, only half of all companies have conducted a risk assessment (Inspectie SZW, 2015a, p. 39), meaning that workers have been involved in these in only about one-third of all companies. In addition, the issue of psychosocial risks is addressed in a clear minority of all companies (Inspectie SZW, 2013, pp. 174; therefore, the involvement of workers in taking measures should not be considered widespread.

The interviews conducted in the 21 Dutch companies painted a rather multi-faceted picture of worker involvement, which is in line with previous findings as well as with the experience of researchers in this field. In some of the companies, the works council or other worker representatives were not even aware at all of the fact that they had a right of approval in OSH matters. In other cases, the company addressed topical issues rather professionally.

We consult the works council in all issues that fall under Article 27. But also if we want to do something that exceeds legal requirements. One example is our alcohol and drugs policy, which we have revised rather drastically. It applies not only to our own employees, but to employees of subcontractors as well. We are currently implementing the new policy, and we will evaluate it on a regular basis. This was a fine example of successful cooperation.

Management representative of NoFer

And the works council of NoFer seems to take its responsibilities seriously too.

Currently we are addressing a request for approval concerning the introduction of medical examinations. We received a lot of paper, in fact a thick book, but according to us it was lacking a clear demarcation of who, what and why. We thought that the boundaries were drawn too widely, every production worker could fall under the scope of the new regulation. The Dutch law is clear in this matter: a medical doctor should draft clear-cut criteria. That part was lacking. Even though we, the OSH committee, have a mandate in these matters, we passed back the issue to

the works council, and now management is reworking the proposal. We will receive a new request shortly.

Works council member at NoFer

The right of approval could also be used to influence specific measures at shop floor level instead of the entire plan of action. In one case, we also encountered a works council that clearly had pondered its strategy in its negotiations on new working times schedules (which also fall under Article 27 of the WCA):

Every year this time of year, around Christmas, one of our clients needs 24,000 extra barrels. We then install a third shift, and people might work on Saturdays. However, the works council asked specifically that this be strictly on a voluntary basis. We did not ask for a request for approval on the director's side. If we had done so, and then granted approval, the new work schedule would have been mandatory for all workers. We didn't want that.

Works council member at Barrel

An interesting example of a rather thoughtful approach was found at RollingPress. This example illustrates that, in some cases, the works council may hold a different opinion from the workers it represents.

At RollingPress, the director had been trying to change the work schedules for more than 10 years, because he considered the schedules to be unhealthy. However, the workers opposed a change in the schedules, because it would interfere with their social life too much. 'The core of our staff is not very open to change', according to the director. 'In this respect, the works council is very important to me. They can probe what's going on in its constituency. Clearly not every new initiative is supported by the workers'. Nevertheless, the director proposed new schedules time and again, but, even though the works council sided with the director, it would not use its mandate to decide against the desires of its constituency.

If ever worker co-decision was important, this is the one case, according to the works council member. This is the issue our constituency has been addressing us on, the one we had serious quarrels over too with our local director. We had to withhold our approval in this matter for a long time, even though I think that he was right.

However, the situation changed after a new mother company acquired RollingPress. Our advice was taken on via the central works council and then the director of the mother company. Now there will be more staff in each shift, and an age-conscious staff policy. I heard this right before this interview. I am very happy. Directly after the interview, I am going to inform our local director that our constituency finally agrees with the new schedule. He's been working on this issue for 10 years.

I think that the view of the works council was right from the beginning. People get older, and they can't keep resisting. In our shifts, 63 % of the workers are over 50, a quarter are over 55. They really are exhausted. I think that's why they don't oppose the new time schedules any longer. But if my colleague in the works council and I had been opposed, this would not have happened.

Works council member at RollingPress

In short, then, the Dutch WOR bestows a very strong power on the worker representatives to exert influence on both the plan of action and specific measures. The right of approval (Article 27 of the WCA) implies that the employer cannot take measures in the fields of OSH and working times unilaterally. In addition, according to previous research, in most cases (60 %) this right of approval appears to be respected (Popma, 2003, p. 178).

Nevertheless, in many cases the works councils are bypassed (on a structural basis in 20 % of the cases). In addition, in hardly any of these cases does the works council then take serious action to demand a formal request of approval or even legal action (for example by calling for the decision to be nullified or appealing to the court) (Popma, 2003, p. 181) ⁽⁵¹⁾.

(51) There appears to be a clear correlation between the number of cases in which the advisory powers of works councils are being circumvented and the willingness of the works council to take action. (Popma 2003, p. 181)

There is no significant correlation between the willingness of the works council to take action and the number of times the works council has been bypassed. However, close contact with the trade union is clearly correlated with the willingness of the employer to respect the right of approval (Popma, 2003, p. 181). Such cases of works councils teaming up with the trade union were not found during our field research.

In addition, it appears that the works council are rather reactive in their approach. As we have seen in section 2.2.1, works councils do not often take the initiative to formally propose that specific issues be put on the agenda and, during field research, we found few examples of works councils proactively influencing the plan of action. One respondent from Chrisanity put it quite clearly:

As a works council, we get to see the risk assessment as well as the Plan of Action. But we do not trot out with issues on our own initiative. We limit ourselves to assessing what the employer comes up with.

Works council member at Chrisanity

In addition, it appears from Dutch research that workers at shop floor level are seldom involved in the process of drafting a plan of action (see Table 12).

Table 12: Worker involvement in plan of action

Who have played a role in drafting the plan of action	%
Management	68
OSH staff	25
OSH service	26
Other experts from outside	8
All workers	12
Supervisors	11
Workers on shop floor	6

Source: Bos and Engelen (2007).

On the other hand, we have deduced from the case studies that workers are involved in devising separate measures relevant to safety and health, notably during regular meetings on the progress of daily work (such as toolbox meetings).

During toolbox meetings, people simply indicate when a machine needs maintenance or replacement. Or if something can be done more handily or better.

Manager at Flour & Powder

Very often, measures are taken without a formal plan of action.

We have no separate health and safety budget. What must be done, will be done. Anyhow we don't really work with formal budgets. We have a very large budget item 'incidental expenditure'. If the exhaust ventilation needs improvement, I suggest that the board spend EUR 14,000 on two filter cabins. They ask me: 'Is it necessary?' I say: 'Yes.' The board says: 'Let's do it.' This is also a fine example of the difference it makes when everybody is in close contact with everybody. Because in this case a board member heard from a worker that without the filter

units a lot more cleaning would be needed. There's a big difference from companies where board members do not allow for these sorts of direct contact.

OSH manager at Country Cooperative

We have a separate budget for OSH, but this is meant to cover the costs of the external OSH service. If need be, there's always enough money to invest in ergonomic furniture or other accommodations at the instigation of the occupational health physician.

OSH manager at Hospital

Therefore, in many cases companies have little or no need for an 'official' plan of action to take measures. Research by the Dutch labour inspectorate also found that this was the case; in many companies that have not performed a risk assessment or drafted a plan of action, measures are still taken when needed (Inspectie SZW, 2013, p. 24; Inspectie SZW, 2015a, p. 22). In addition, the effect of worker participation on the plan of action is significant only in smaller companies (Popma, 2009a, p. 92).

In short then, the OSH effect of formal worker representation concerning the plan of action or specific measures to tackle OSH issues seems to be of less importance than direct participation at shop floor level. In addition, works councils that wish to raise specific issues do not have to wait for the formal planning stage in the risk management cycle to take action, even if a thorough risk assessment and elaborated planning is clearly helpful in attaining better safety and health conditions (Inspectie SZW, 2013, pp. 59, 65, 69, 76, 80; Inspectie SZW, 2015a, pp. 51, 55, 59, 64, 69).

A plan of action is also helpful as a reminder of what is to be done (see section 2.2.4):

Last March, we had the bi-annual visit of the external OSH service, and we met with the expert from that service. We fetched the last plan of action as some sort of a reminder. It turned out that it contained many points for improvement that had not been carried out yet. I have the impression that now it will happen after all.

Works council member at Chrisanity

2.2.4 Monitoring and corrective action

Worker representatives also have a role to play in monitoring safety and health conditions as well as in the progress of safety and health measures. This can be done by:

- (regularly) visiting the shop floor and having direct contact with workers;
- having periodic meetings with the OSH expert; and
- using statistical information.

The first method is often referred to as 'contact with the constituency'. As this is identified as an important factor in effective worker representation, it will be dealt with in more detail in section 3.2. In addition, (regular) visits to the shop floor level are instrumental in detecting risks; this has already been dealt with earlier (see section 2.2.2, Dutch Delhi, MentaWorks), so this first method will not be described here extensively. Some short examples will suffice here. For example, the works council of NoFer has quite a systematic approach:

In all cases where measures have been taken, we visit the workplace half a year after the agreed date of implementation.

Works council member at NoFer

The works council of Dutch Delhi is quite keen on compliance behaviour in practice:

In 90 % of all accidents, it concerns major categories such as cutting incidents, hand in machine and transport. Behaviour is the component that adds most to the danger: 'I just wanted to do this or that'. That's when safety measures are switched off.

Works council member at Dutch Delhi

The OSH manager at Hopital was quite pleased with the role of the works council as regards Hopital's new non-aggression policy:

The works council can signal me when some of our recommendations fail to land in some of the departments. I have the idea that the works council members have good feelers within our organisation. They are really my eyes and ears on the shop floor level.

OSH manager at Hopital

The second method is periodically meeting with either the OSH expert or other personnel who are responsible for carrying out safety and health measures. This was the case in many of the companies, notably in enterprises where the works council and the OSH experts meet on a regular basis. In some cases the plan of action is a fixed item on the agenda, as in Dutch Delhi, RollingPress, Hubbers, Glasswool and most of the other cases that had some sort of certified safety and health system installed, such as OHSAS or VCA. It goes without saying that any form of regular consultation is very helpful in monitoring whether or not protective measures are being carried out and, if not, whether or not corrective action is needed.

The third method, the use of statistical information, was also not uncommon in the cases. Most companies do keep some sort of absenteeism statistics. These are a regular item on the agenda in many of the companies we visited, as they are in most other companies in the Netherlands ⁽⁵²⁾. In some cases, the registration appears to be overshooting the mark:

We do get absentee statistics, yes. We are supplied with the number of hours worked and number of hours absent of each worker for each day. Anonymised, of 150 employees. It is way too complex. You can get too much information, yes.

Works council member at Audire

In addition, works councils have a right to the anonymised findings of medical examinations, incident reports, near misses (recordable incidents), overtime and so on. Many of the companies provided examples of such statistics, notably the larger ones or the companies that were certified on the basis of OHSAS or VCA.

Clearly, however, statistics are not always easy to deal with. One of the better organised examples was the works council of NoFer:

Every member of the OSH Committee has been assigned one or more sections of the company for which he gets the notification of recordable incidents. We as a committee then discuss what issues are most striking. Are some issues recurring, do they show a pattern, what's happening with these issues? If the findings show a clear pattern, it's up to the OSH manager to do something about it.

OSH manager at NoFer

In contrast, there were also some companies in which the worker representatives either were not supplied with data (Shipeneer) at all or were really not interested in absenteeism statistics.

I do not know how the findings of medical examinations, or consultations, or statistics on absenteeism are being analysed and whether the company draws lessons from these findings. That's up to management.

Worker representative at Moon Chemicals

In some cases, statistical findings may stir up action, whereas in others they put the works council in an awkward position. An example of the first is the works council of RollingPress.

On the occasion of an incident when one of our colleagues fell into a coma after a brain haemorrhage, we made a list of all ailments that people were suffering. Some of these were

(52) Keeping a registration of absenteeism is a statutory obligation on the basis of social security legislation. Nearly three-quarters of all companies have hired external expertise to manage the registration (Bos and Engelen, 2007, p. 51).

quite disquieting. That's no coincidence: these people have worked night shifts for years. We then hired an external expert, and his report confirmed our own views. He pointed to the high average age, the heavy shifts, and indicated that we should develop an age-aware personnel policy. Our advice was issued by the Central Works Council, and it was adopted by the director. That's very pleasant, if your advice gets the signature of the highest in command.

Works council member at RollingPress

A more difficult predicament was witnessed by the works council of Glasswool:

Our OSH committee put the issue of work pressure on the agenda. It's a difficult issue, because not all employees experience it in the same way. As a result of a provision in the collective labour agreement, we now receive monthly figures on overtime. We now watch carefully over each department that makes more than 6 % overtime, calculated on the basis of their regular staffing. We as a works council cherish the opinion that, if the Working Time Act comes into play, people should be protected against themselves. But there's always people who want to work overtime. So when we proposed to spread overtime over all workers in the shift, some of those that want to make an extra buck were not too pleased. So now we as a works council are informing our constituency about the health effects of frequent overtime.

Works council member at Glasswool

More generally, dealing with statistics or other indicators may prove to be something of a balancing act. Moon Chemicals, for example, uses the reporting of incidents and near misses as a means of optimising process safety. To this end, the company has developed a system of reporting, as a result of which all employees are expected to report on any incident that could be of relevance.

These incidents are brought to the attention of the safety manager, and then analysed in the monthly safety meetings. To us, it is quite clear that this is meant to be a tool for continuous improvement. But some workers misconceive it as a blame game. It is of the utmost importance that we make clear that the analysis of incidents is not a matter of blaming the 'guilty ones'. This should be communicated as clearly as possible.

Safety manager at Moon Chemicals

In summary, then, it is clear that workers and their representatives could play an important role in monitoring both the implementation of safety and health measures and daily workplace practices. In addition, their knowledge of day-to-day practices could be very useful in analysing the fundamental causes of why certain indicators (incidents, absenteeism and so on) apparently signal that OSH in the organisation is substandard. Even if the input of works councils in this analysis does not appear to be very in-depth and systematic, some cases (NoFer, Dutch Delhi, Hopital) do give some examples of the possible use of worker involvement. In other cases (Shipeneer, Moon Chemicals), the analysis has been left to the safety specialist, without in-depth involvement of workers.

Systematic monitoring and use of statistics and other indicators admittedly require the willingness and ability to look beyond the mere statistics and actually *learn* from relevant indicators. However, learning through worker participation also, and primarily, requires an *organisation* that is geared to learning and is able to turn data into prevention strategies. In some of the cases, notably those that were accustomed to a systems-based approach, we encountered the first signs of such a learning culture, notably concerning clear-cut safety issues, from an operational point of view. However, we did not encounter cases in which 'secondary' or strategic learning was envisaged. This is not surprising, though, as this more fundamental approach to safety and health can be found only in a small minority of companies (Drupsteen et al., 2013).

2.3 Main contribution of worker participation

From the above sections, as well as from previous findings (Popma et al., 2001; Popma, 2003, 2009a), it is clear that worker participation really does contribute to better OSH — both formal worker representation and direct participation. The previous findings indicate that worker participation leads to better outcomes, such as 'more OSH measures', 'better OSH measures' and slightly lower absenteeism. Outcome parameters such as incidences of occupational accidents or occupational diseases have, from a methodological point of view, proven to be too difficult to link to worker participation.

In addition, in previous studies it was difficult to assess whether or not worker representatives play a role in *strategic* issues relating to OSH. This, of course, is not to be expected, as most companies limit safety and health management to risk control rather than really integrate safety and health into more strategic management decisions and organisational development (Visser and Zwetsloot, 2004); this is the case even if the upcoming notion of corporate social responsibility may build the bridge between risk control and strategic management.

The cases do shed some light on these points. Even if the limited number of cases should not be taken as a source of semi-quantitative knowledge, they do paint a general picture. The general impression, then, is that the main contribution of worker participation appears to be in the field of *operational* risk control; namely by signalling risks, in only a few cases by contributing to a systematic analysis of the causes of these risks, or, in some cases, by suggesting improvements and some monitoring of implementation.

The strategic role of works councils appears to be rather limited and attempts to implement second-order or double-loop learning were non-existent in the cases. However, these latter two points should be considered a value-free observation: even if higher-level organisational learning is valuable, it is not a goal in itself. First-order learning, in the sense of better risk control changing to prevention, is at least as important (Drupsteen, 2013; Visser and Zwetsloot, 2004). Moreover, even if worker representation only helps organisations just to control the risks, this is beneficial too. Furthermore, involvement of workers in risk assessment does in itself lead to learning processes among the workers, as they become more aware of safety and health issues. Another benefit is that workers learn not to take things for granted, which is very useful in establishing a professional staff. In addition, involvement of workers in the process of developing measures, by virtue of its appeal to their professional, workplace expertise, promotes workers' pride and attachment to the company (Popma, 2013b). In this way, not only does worker participation in OSH contribute to better safety and health conditions but, vice versa, involvement in OSH may also lead to more involved workers.

Finally, as the management representative at RollingPress put it, worker representation may be a driver for more transparency in safety and health management:

Whether we hear new things from our works council? Not as regards policy issues, no. But we do hear what's going on at the shop floor level. And the mere existence of the works council obliges you to explain what you are doing.

Management representative at RollingPress

Nevertheless, one important finding merits some further attention here; the case studies gave the impression that the main focus in safety and health is on safety rather than on health. This can be explained by the fact that the link between unsafe situations and accidents is much more visible than the link between exposure to risk factors, such as dangerous substances or psychosocial overburdening, and the health effects of these kinds of exposure.

This can be explained in two ways. The first is that there are psychological processes underlying risk perception, which lead us to focus on the short-term and highly visible risks (availability bias) (Kahneman et al., 1982; Fiedler and von Sydow, 2015). Second, there is an increasingly popular conceptualisation of safety and health as control of loss, which favours a focus on those risks that are associated with short-term financial costs or benefits — even if there is abundant evidence that the long-term costs of occupational diseases dwarf the costs of occupational accidents (van der Ploeg et al., 2014; Hoeymans et al., 2014).

Furthermore, previous Dutch research (Popma, 2003, 2009a) found that the contribution of worker representatives is most effective in the 'not so visible' risk domains other than safety — notably psychosocial risks. As psychosocial risk is one of the emerging risks addressed in ESENER, this indicates, first, that a shift from safety to health is needed. Second, the emergence of 'invisible' health risks may be a further reason to strengthen worker participation in safety and health.

In the next section, some more attention will be paid to the rising attention to emerging issues in the case study companies.

2.4 Emerging issues

Over the last three decades, little has changed fundamentally in the field of OSH and worker representation in the Netherlands. The role of the works council in OSH has been undisputed, and safety and health indicators have remained remarkably stable — or disappointingly so, if you wish to be more outspoken (Popma, 2009b). OSH has been high on the agenda of works councils — sometimes highest, sometimes next after restructuring or the financial situation of the company.

Three themes, however, appear to have emerged over recent years, both in the public domain and on the agenda of works councils; the increasing number of workers succumbing to psychosocial risks ⁽⁵³⁾; 'sustainable employability' or age-aware HRM; and 'health management' with an strong focus on lifestyle and health behaviour (including in the private sphere) ⁽⁵⁴⁾.

Trends in works councils' training

One indication of the themes that are considered to be 'emerging' is the extent to which these themes are part of works councils' training programmes. Works councils do not have to follow a prescribed path in their training (even if there are some common themes, such as a broad introduction to OSH legislation). The works council, together with the trainer, designs tailor-made training programmes. According to one key informant (works council trainer), there has been a shift from 'hard' safety issues to occupational diseases (even though the majority of the focus is still on safety). Most notably, there is a clear rise in the interest that works councils take in themes such as psychosocial hazards and work pressure.

In early 2016, training agency SBI Formaat published the first results of research conducted among over 400 works councils. These results show shifts in the themes with which works councils have occupied themselves in 2014-2016. The respondents could choose from a list of 60 options. The shifts reflect the influence of a changing economic climate. In all three years, the financial statement of the company was highest on the agendas. In 2014, budget came second, but in 2015 and 2016 this position was taken over by (workers') safety, directly followed by (workers') health in third place. Another theme, in fifth place, which was not part of the top 10 in 2014 and 2015, is 'sustainable worker employability/age-oriented HRM'; 59 % of the works councils reported that this had occupied them in 2016.

A second new issue that has appeared in the top 10 is 'new ways of work' (flexibility in work hours and workplaces) ⁽⁵⁵⁾. In 2016, this issue occupied 53 % of the works councils.

Some of the fastest risers on the agendas of Dutch works councils are sustainable employability or age-oriented HRM (+30 %), flexibilisation of working hours and places (+22 %), vitality-enhancing management (+22 %) and psychosocial hazards (+16 %). It is obvious how closely most of these issues are linked to safety and health.

2.4.1 Psychosocial risks

'Psychosocial risks' form a multi-headed monster. The Dutch WCA defines psychosocial risks as 'the factors direct or indirect discrimination, including sexual intimidation, aggression and violence, aggravation, and work pressure, in the employment situation that cause stress' (Article 1(3)(e) of the WCA). All of these were found in many of the 21 cases.

(53) 'The number of Dutch workers suffering from signals of burnout has risen consistently over the years to, anno 2015, over 13 % of all workers' (Hooftman, 2016, p. 77).

(54) One example can be found in the recent 'Policy Agenda 2020' of the Labour Foundation (see section 1.1.4), which states: 'Next to OSH policy, a vitality and health policy in a broader sense should contribute to keeping workers "fit for the job". Investing in vitality and health are a responsibility of both the worker and the employer.'

(55) In the Netherlands, the term 'new ways of work' refers to the phenomenon of a great number of corporations that have a lot of clerk posts, allowing their workers, and even stimulating them, to decide for themselves when they work and where (in the office or at home, through the internet). As a result of this, they need fewer offices and work is more target oriented (instead of driven by 'being visibly present'). They also claim that this provides better conditions for combining a working career with parenting and caring, and that it relieves the pressure on transport infrastructure. See Popma (2013a) for the OSH effects of 'new ways of work'

Psychosocial problems clearly occur, according to our employee satisfaction survey. Many of our non-native workers reported discrimination. But because the survey was not sufficiently thorough, it was hard to really pinpoint what they referred to.

Manager at Glasswool

The issue of harassment played a role here. I had someone showing little respect to women. One of my best men. I have repeatedly addressed him on his behaviour, and finally proposed a severance payment for him to leave. After that, he reconsidered and pledged to better his behaviour. He was allowed to stay, and now it's going all right.

Manager at Screelec

However, it was quite clear that work pressure was the main issue in our 21 cases ⁽⁵⁶⁾. Therefore, we shall focus now on this issue, and the way in which the worker representatives have addressed it.

Of course, a lot of factors could lead to work pressure. Some of these relate to the expectations of external parties or shareholders.

What's really a hot item is the problem of work pressure. People have a lot on their plate, because of the new rules issued by insurers and municipalities. And if something is wrong, we're being cut in our budget. Because people have lost faith in Crossroads, there's a lot of staff turnover. And also the fear of making mistakes adds to work pressure.

Works council member at Crossroads

There's always pressure from above. A lot of money has been invested in a new production line, but output is not yet as expected. That's bothering the management in the US. Partly, this is because of unrealistic expectations.

Works council member at Barrel

What appears to be the most important factor, however, is international competition and customer demand.

I have a strong feeling that work pressure is rising, that we have to do more with fewer people. Partly this is because of competition from China. But we have also developed a new product, which gives us another position in new markets. We're now supplier in the automotive branch. Car factories have, let's say, their own approach to their suppliers. Our production system must conform to higher standards, and we will have to meet them with the same workforce or smaller.

Works council member at Dutch Delhi

Another factor could be changes in management — sometimes even changes sparked by the ambition to fight work pressure.

Things like work pressure and subjective health is something we'd like to make a change in. At this moment we're making a shift towards more autonomy and self-organisation, which will give our workers more control over their own work. This also involves training and coaching. It also entails a leaner management structure. And yes, I'm aware that self-organisation may lead to an increase in tasks and a rise in work pressure. That's what's going on at the moment. Also because we've had a very heavy management structure. It really requires a radical change.

Manager at Chrisanity.

In our warehouse, we've witnessed a radical change, which was an explicit management objective, from a directive management style to a coaching management style. At this moment, this is digging up a lot of emotions that for a long time were hidden under the surface.

Manager at Hubbers

Work pressure has been recognised more and more to be a serious problem; however, many Dutch workers think that their employer should do more: of those workers who claim work pressure to be a

(56) In the Dutch Arbobalans, 1 out of 20 workers reported having been discriminated against.

problem, 50 % say that the employer is not taking adequate measures (Douwes, 2014, p. 50) ⁽⁵⁷⁾ This may partly be attributed to the complexity of the problem, an issue which was also raised in the case studies. It is clear that each of the underlying factors merits a different approach to the problem, even if there are some elements that should always be taken into consideration. First, a good assessment of the relevance of the subject is needed (Dutch OSH legislation prescribes that the employer must address psychosocial risks in the risk assessment) ⁽⁵⁸⁾. Second, a thorough analysis should be made of the magnitude of the problem as well as of its underlying causes. Third, adequate measures should be taken and monitored.

Worker representatives could play different roles in all of these three steps. Furthermore, in general, previous studies have shown that worker participation correlates with better OSH practices in the field of psychosocial risks. In fact, it is one of the issues where worker representation appears to be most effective (Popma, 2009). Clearly, however, the effectiveness of worker representation varies from one company to another.

In our case studies, we have found several examples of how worker representatives have addressed the issue, but no action whatsoever appeared to have been taken as a result of the signalling role of the works council or other worker representatives. This is a clear sign that the problem of burnouts is still very much underrated.

Our organisation is changing rapidly. That's why we're anticipating an increase in absenteeism. Pressure is high. We ask a lot of people, maybe too much. But we don't see that in absenteeism statistics yet. But I foresee a rising number of burnouts within the next six months.

OSH manager at Dutch Delhi

Yes, there are cases of burnout. We have at least one case among employees, and four among managers. I think this is caused by work-related factors. You see that people get overburdened by new developments. In the old situation, they had the proper competencies, but in the new situation these are insufficient. I fear for new cases. But management thinks it's all related to the individual worker.

Works council member at Dutch Delhi

The solution for this kind of companies is rather simple:

Younger workers are more at risk of contracting psychological disorders than in the old days. Many young workers get mentally ill due to work. In my opinion, this has to do with their upbringing: they lack mental stamina. Our colleagues from India are really surprised that we cannot perform medical examinations during the recruitment phase. If we were allowed to do so, we could check for their stress-resistance.

OSH manager at Dutch Delhi

In other companies, the subject simply appears to be too complex to handle, or has led to ad hoc measures only. This has also been acknowledged in the key stakeholder interview with the representative of the employers' organisation AWWN (Algemene Werkgeversvereniging Nederland) (see below).

If you are talking about work pressure and stress: this is still uncharted territory. The Labour Foundation has developed a specific health and safety catalogue for that. In some industries, the subject of stress is included in the occupational health and safety catalogue, but many companies still think: 'why would we need something like that?' They do sometimes take ad hoc initiatives related to work stress, but thorough consideration of causes and approaches is difficult. And so they tend to give it less attention. Stress is also often not straightforward, unlike safety matters where something is either an accident or it is not an accident. Stress can also be related to the private situation.

Key informant AWWN

(57) According to research by the labour inspectorate, however, measures to fight work pressure have been deemed adequate in most cases (I-SZW, 2013, p. 79).

(58) Article 2.15 of the Working Conditions Decree.

In addition, measures often appear to be taken after the event. The negative effects of policy decisions are not taken into consideration *before* decisions are made and are, instead, remedied at a later stage; for example, workers who are kept on after restructuring might experience health effects such as 'layoff survivor sickness' (Noer, 1997; Kieselbach, 2009, p. 31). In these cases, it is very helpful if the worker representation is more alert than management.

In times of restructuring, management does not think beforehand about the effects of a restructuring upon work pressure. Mostly management thinks: 'we're going to reorganise, and thus improve work'. Most of the time, it's our works council that is the first to pose questions regarding this approach.

OSH manager at Twin City

Even if, according to previous research (Popma, 2003, p. 186), most works councils appear to take the health effects of restructuring into consideration, a proactive approach on the part of worker representatives was seldom found in the cases. One of the few exceptions was the works council of Hopital:

It's quite clear that the works council really has too much on its plate, mainly because of the ongoing restructurings. So I fully understand that OSH is not a top priority for the works council. But on the other hand, in its advice concerning the restructuring of the central kitchen, the works council beforehand paid attention to the staffing after the restructuring — and therewith also to work pressure.

OSH manager at Hopital

However, in general, psychosocial risks appear to be a problem that worker representatives find quite hard to tackle.

The main problem is: how can we, as a works council, tackle the issue? HRM is doing its best to discuss the issue in the teams, but in practice it hardly happens. And we as a works council are trying to take the lead, but we simply can't pull it off properly.

Works council member at Chrisanity

It is interesting, though, that precisely the issue of work pressure could be the prompt to put worker participation higher on the agenda. As job autonomy is one of the main instruments of fighting psychosocial risks at work (Karasek, 1979; Spector, 1986; Karasek and Theorell, 1990), introducing forms of 'self-organisation' could be a way to curb the increasing number of workers suffering from stress. This was also suggested by the key informant of the employers' organisation (see below). However, it is also clear that 'self-organisation' may not be a panacea in all companies.

Work pressure and stress reduction through more self-organisation: Interview Bernard van Lammeren (BvL) with key stakeholder in employers' organisation (KS)

BvL: That does not in itself lead to reduction in work pressure.

KS: But it may not be necessary. It's mainly about how people experience work pressure. The point is not that you have to work hard, but that you feel rushed. That you have no control over the situation.

BvL: That's certainly true. But one of the organisations where I recorded the most vehement complaints about this happened to be an organisation where management layers were cut away. The intention was to empower people, but the workforce apparently experienced it differently. The support that managers can give to people ceases, and the result is that their work keeps piling up.

KS: Okay. I have seen the same in research, even in a healthcare organisation. I must say that the picture there was quite ambiguous. Some said: 'that is a disguised cutback operation; we are just getting more tasks.' Others saw it as an opportunity. As an extra space you can learn to use. You therefore reap more pleasure from your work. That your work becomes less demanding, no, that is not something I believe in. That's why I say: it's about the experience. I'm not saying it's a panacea. However, with some people, it falls on fertile ground.

The interviewee then mentions a transport company as an example from his own experience.

KS: There are small teams that make their own schedules, in agreement among themselves. There are team leaders, but they remain at a distance. The staff experience that as extremely inspiring. Absenteeism is low. The same company also has teams that are not allowed to work in this way; they have a Department of Planning so that the scheduling process is more remote. Some find that more enjoyable, but others find it really unpleasant. They therefore experience more pressure. People like to have the freedom to make arrangements directly with colleagues if they have to take care of something at home. This is less possible where things are centralised. The company itself can see that having a team leader with 80 drivers reporting to them is not workable. People want attention, which they won't get from a leader in that situation. An organisation must of course lend itself to the approach, but here we firmly believe in the principle: place responsibilities at the lowest level possible. It does work. It can reduce stress and work pressure. I know plenty of examples of that. But not if it is just a disguised cutback operation.

BvL: Is this a policy matter, for the AWWN? You talk about it like it's a mission.

KS: It's like that for me personally. But it is indeed true that we as an organisation believe in consultation with employees. Let me put it this way: feeling restricted can lead to dissatisfaction. Where people have more control over their work, and where they may help determine more, collectively, their well-being and productivity improves. The AWWN considers that to be very important. However, we realise that it is under enormous pressure. There was huge competition in many industries during the crisis. When that happens, you also can't appoint a lot of managers to really help people on a small scale.

Moreover, in fact, despite the ideas on autonomy leading to better performance and less stress, job autonomy is now actually dwindling — not only in the Netherlands (Muller et al., 2015), but in Europe in general (Lopes et al., 2014). Therefore, even if psychosocial risk is high on the agenda (in the Netherlands as well as in Europe) ⁽⁵⁹⁾, it appears that the current trends are in contrast with these plans and more workers are experiencing burnout.

(59) In 2014, the Dutch Minister for Social Affairs announced a four-year plan to fight stress at work (Letter to Parliament, 13 May 2014).

3 Key elements to effective worker participation

In Chapter 2, it was shown that active worker participation in OSH is associated with better safety and health outcomes (notably in companies that are taking more and better safety and health measures (Popma, 2003, 2009a)). In addition, we intended to describe *how* worker participation might contribute to better safety and health. However, it is clear from both previous studies and our 21 cases that the effectiveness of worker participation can vary widely. This chapter seeks to set out some of the key elements influencing effectiveness that were identified in previous research as well as those that arose from the case studies.

Clearly, there is a wide variety of immanent and contextual influences that determine how worker representatives operate, thus affecting the effectiveness of their actions. One of the immanent factors is management commitment, both to OSH and to worker participation in general. In fact, regarding the Netherlands, Popma identified 'management commitment' as the most important factor of all (Popma, 2003, pp. 214-217). Other immanent factors include the commitment of worker representatives and their 'quality of voice' (knowledge, experience) as well their use of power instruments, such as their legal powers, forging a strategic alliance with trade unions or turning to the labour inspectorate.

However, it is clear that these immanent factors are also, to some extent, influenced by external drivers and barriers such as statutory provisions on worker representation, government policy, macroeconomic factors or labour relations. For example, in sectors where trade union density is very low (as it is in some Dutch sectors), strategic alliances between works councils and trade unionists may be quite unlikely. Another example is the Dutch government policy (since the mid-1990s) of having employers pay sickness benefits to their employees on sick leave, which was meant to encourage employers' willingness to tackle safety and health issues in companies — albeit that this commitment may be for financial rather than intrinsic reasons. In addition, it is not self-evident that willingness to manage OSH also entails willingness to involve workers in OSH Management.

In this chapter, we shall describe some of the key elements that the research team found to be of importance in the 21 case studies (as well as in existing research). Most of the external influences – both drivers and drawbacks – have already been described in Chapter 1, whereas others are newly introduced in the current chapter.

Two of the most important drivers, actually the *condition sine qua non* to effective worker participation that have been identified in earlier research (Popma 2003), are management commitment to worker participation as well as to OSH. Other key drivers identified were trade union support, the presence of OSH management systems, and enterprise size (the latter implicating that the notion of *formal* worker participation in *systematic* OSH management, that is at the core of the Dutch WCA, is actually a model that is only really effective in larger companies (Popma 2003).

Internal influences that were addressed in the field work were the effect of:

- Internal organisation of labour process, work intensification
- OSHMSs
- OSH services
- Knowledge or legitimacy

External influences that were addressed in the field work were the effect of:

- Goals of governance and regulation (for example lowering absenteeism, deregulation)
- Regulatory requirements and enforcement strategies
- Macroeconomic factors (for example labour market, job security, labour market power of workers in sectors, employment standards and protection, flexibility, subcontracting)
- Influence of sector
- Trade union density and strategies

3.1 Commitment

As has been said earlier, management commitment is the main precondition for both OSHM and worker participation or representation. As will be shown below, these do not always go well together; however, OSHM without active worker representation is indeed conceivable and the added value of worker representation (at least in its formal sense) is not always self-evident.

It has already been mentioned in section 2.1.1 that most of the employers in our cases were in fact committed to keeping their workers safe and healthy. Willingness to involve workers appeared to be non-problematic as well. The motives behind this commitment to OSH differed, ranging from individual ethics of the employer or OSH policy of the mother company to demands from suppliers (see also sections 2.1.1 and 3.6).

To me, safety awareness is priority number one.

Management representative at Barrel

I myself am very concerned about the health of our people. Working in shifts in itself is a risk, but there are also a lot of smokers, alcohol use is above average, eating habits are unhealthy, and they do not exercise. It really hurts me, men of over 130 kilos.

Manager OSH at RollingPress

However, if the employer is not intrinsically motivated, 'commitment' to safety and health could be encouraged through command and control strategies (notably an active labour inspectorate), financial incentives or action from the side of the worker representatives. As can be inferred from ESENER-2 findings (Table 13), fulfilling legal obligations and fear of the labour inspectorate seem to be important motives for employers to maintain an OSH policy.

Table 13: Motives for OSH policy (ESENER Q264) (%)

In your establishment, how important are the following reasons for addressing safety and health?	Major	Minor	Not at all	Total	No answer
Fulfilling legal obligations	79	11	9	100	10
Meeting expectations from employees or their representatives	85	8	7	100	1
Maintaining or increasing productivity	77	12	10	100	19
Maintaining the organisation's reputation	77	12	10	100	17
Avoiding fines and sanctions from the labour inspectorate	71	14	14	100	12

Previous findings from Dutch research also seem to indicate that fulfilling legal obligations is one of the main motives for employers to commit to OSH. If we compare these findings (see Table 14) with survey data from ESENER-2, an inexplicable discrepancy between ESENER and the previous Dutch research as concerns the influence of the labour inspectorate can be seen ⁽⁶⁰⁾.

(60) There is also a gap between the Dutch motive 'workers want us to' (see above; 2 %) and the ESENER reason 'meeting expectations from employees or their representatives' (85 %). However, if we take a closer look at Table 14, the motive 'health of workers' is also one of the main motives for employers to commit to safety and health.

Table 14: Motives for OSH policy (%)

Motives for OSH policy	1-4 workers	5-9 workers	10-99 workers	100+	Total
Moral motives					
Health of workers	39	48	61	78	50
Morally right	14	11	15	20	14
Legal motives					
Prescribed by OSH legislation	52	56	54	54	54
Fear of labour inspectorate	0	0	1	0	0
Economic motives	10	13	16	20	13
Fear of tort claims	1	1	2	0	1
Workers want us to	0	1	2	3	1

Source: Bos and Engelen (2007).

What is interesting in the above tables is the fact that, in the majority of the smallest companies, 'health of employees' is not a ground for being active in OSH. A more prescriptive approach might be more influential in stirring up commitment. On the other hand, 'fear of the labour inspectorate' does not seem to be a motive for Dutch employers to commit themselves to an active safety and health policy (Table 3.3). One of the explanations for this lack of 'fear' may be the understaffing of the inspectorate, which, as a result, can perform no more than 15,000 inspections annually on a total of over 700,000 enterprises.

In addition, economical motives seem to be of minor importance, which is evidence of the failed strategy of facing non-complying employers with the financial costs of poor safety and health conditions (see section 1.2). Most employers have shifted the risks of absenteeism to insurance, which has fundamentally undermined the cost-benefit approach of the Dutch government. In addition, it is found that tackling absenteeism is done not by means of prevention, but rather through the rapid, and sometimes harsh, reintegration of sick workers.

The third strategy to encourage commitment, namely action by the worker representatives, is the most interesting one within the context of the present research. If the employer shows no commitment to OSH, worker representatives could call in the labour inspectorate or instigate action (interrupt work on the basis of Article 29 of the WCA, mobilise their constituency, call in the trade union, organise strikes, seek publicity). In practice, however, this is quite uncommon. For example, the works council may file a complaint to the labour inspectorate, but the number of complaints coming from works councils is rather limited: about 30 annually (Inspectie SZW, 2015, p. 33). In previous research it was found that only 10 % of all works councils could be labelled 'activist' (Popma, 2003, p. 217).

This may be understandable because, if the employer thinks 'not at all' that expectations of employees make a good reason to address safety and health, it is quite unlikely that pressure by works councils or other worker representatives would prompt commitment.

As regards the commitment of employers to worker participation in the field of OSH, this commitment may, once again, be dependent on the individual characteristics of the employer or the company culture.

Here we have the ethos of a family business. All Christmas presents are piled up each year, and every employee gets his share. That's one of the reasons why everybody thinks about what may be done in a better way. And when people complain, I always ask them: 'do you have an idea on how to improve this?'

Manager at Country Cooperative

This culture of cooperation is inherited from the former owner, who worked with Total Production Management Japanese style. They listen to everyone who comes up with an idea. When compared with other establishments in other countries, the Dutch one is much less hierarchical. In other countries, the boss is the boss and workers don't dare to open their mouth.

Works council member at Flour & Powder

Nevertheless, in the field of worker representation a clear legal structure is also most useful in helping employers to do 'the right thing'. In many cases in the research where a works council was active, the researchers gained the impression that the mere existence of the WOR clearly helps workers to have their voices heard. The WOR was considered to be 'a fact of life', implying that the involvement of works councils is seldom discussed. Previous research also found this to be the case: in most companies the works council is accepted as a matter of course (see Table 1.3).

However, this is not to say that involvement of workers in OSH is equally self-evident. Nonetheless, in fact, it is. Safety and health is in the top three of the agenda of the meetings between directors and works councils (see box in section 2.4, and previous research: Popma, 2003, p. 163), as was also the case in the case study companies. In the cases without works councils, worker participation in OSH also appeared to be not only taken for granted but appreciated as well — as are other forms of consulting stakeholders.

I meet with the board of the cooperative once a month, and with the supervisory board four times a year. I have the freedom to decide a lot of issues on my own, but I submit everything to the board. It takes more time, but this way more people have thoroughly considered the issues. I have been very pleased with this on several occasions, because it led to better decisions.

Manager at Country Cooperative

On the other hand, in nearly a quarter of all companies with over 50 employees, the works council is missing; in smaller companies there is even less willingness to institute formal worker representation. In these cases, a trade union or individual workers could turn to court to make sure that some sort of worker representation is in place (Article 36 of the WOR), but that is quite uncommon in the Netherlands; it would also probably not lead to good working relations. In cases where the workers would like to have their interests represented by either a works council or an employee representative body, the workers remain empty-handed unless they take serious action in line with the option mentioned above.

Both elements of 'employer commitment', then, put the Dutch approach of self-regulation in another perspective and may be considered to be in denial of empirical evidence. As was concluded in previous research, self-regulation is a great system, but is effective only in companies that are committed to taking OSH seriously and where works councils are geared towards playing an effective role in this field (Popma, 2003). In situations where commitment is lacking, which appears to be the case in many companies (Inspectie SZW, 2016, p. 14) ⁽⁶¹⁾, other strategies are needed. For example, it was found that, upon a visit by the labour inspectorate, most companies are in breach of the law. When the inspectorate pays a follow-up visit, most companies have remedied the previous shortcomings. This clearly indicates the need of clear-cut legal provisions and the effectiveness of labour inspection.

3.1.1 Management style

Another side to commitment is management style. It was found in various cases that differing management styles might have divergent effects on the functioning of the works council (or other forms of worker participation). The way in which management and workers cooperate should be geared towards the dominant culture within the company. For example, this was found in cases where the director came from a culture different from the Dutch one.

(61) Only 27 % of all companies comply with all of the four main legal provisions, which may be considered to be the cornerstones of OSH policy: having conducted a risk assessment, having appointed internal OSH specialists, having a contract with the Arbodienst (OSH service) and having organised first-aid and fire-fighting measures.

Our boss had a problematic relationship with the workers. He came from an American background, and he really thought all things had to be done his way. That didn't work out. Then he really worked on his management style, and now he's much more respected.

Works council member at Screelec

In my opinion, the mother company does not abide by the Dutch Works Councils Act. Formally, our director has a lot of decision powers. But I have the feeling that in practice he's doing what he's being told by the Indian mother company.

Works council member at Dutch Delhi

However, even within a completely Dutch company, management style and cultural diversity should be in sync. The OSH manager of Hopital works at two separate locations and she noted a marked difference.

The employees in Amsterdam are much more outspoken than those in Lelystad, and they also are much more daring in addressing complaints and what should be done to improve working conditions. Also, the employees in Amsterdam are a bit older. Therefore, they are more likely to stand up for themselves, for example as concerns work pressure. Furthermore, they are more able to articulate the probable causes of the shortcomings they have pointed out.

OSH manager at Hopital

Workers' willingness to speak up about safety and health issues is also important for using their knowledge to instigate organisational learning (see section 2.1.4).

Our workers have to report near-misses, as part of our approach to continuously improve performance. But workers often are afraid that they will be criticised when they report incidents.

OSH manager at Moon Chemicals

Culture and management style are important factors, then, for effective safety and health participation.

We as workers' representatives really have an influence here. That's really not the case everywhere. In other printing companies of our mother, there's a more docile culture. Here, if you have a positive story with good arguments, a lot can be done. I had never expected that, when I started as a workers' representative. But at the time we had a director who was more of a dictator.

Works council member at RollingPress

Furthermore, in the end, finding the appropriate style pays off – whereas not finding the appropriate style may have undesirable consequences.

Every director gets the works council he deserves. Our director is very open to contributions by the works council. He once said: 'the works council is my fifth MT member'. Now our cooperation with the works council is rather harmonious. They are critical yet constructive.

OSH manager at Twin City

Indeed, both parties will have to invest to ensure such a good relationship.

I have worked in other organisations as well, in which the works council was much more suspicious-minded. In that case, the director will easily lapse into a defensive or aggressive approach. This is not very constructive.

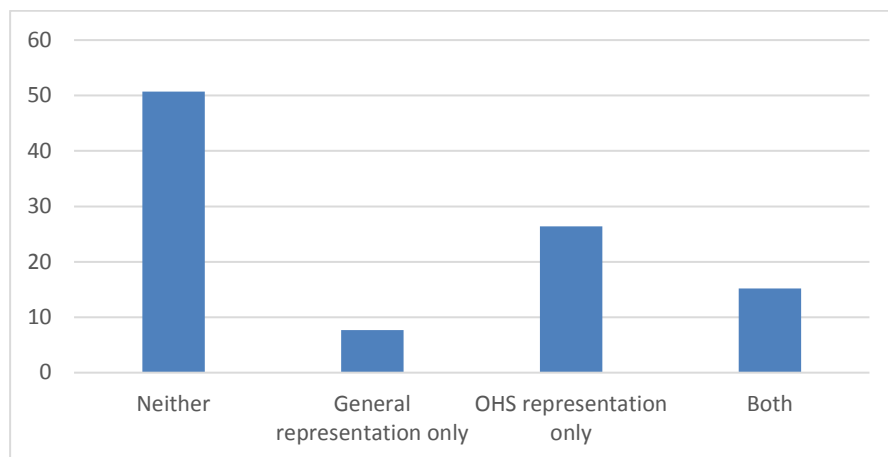
OSH manager at Twin City

3.2 Presence of worker representatives, knowledge and time

One key factor in effective worker representation is the rather tautological observation that at least some form of workers' representation in OSH is present. According to the ESENER-2 findings, this is the case in about 50 % of all companies (see Figure 9). The other side of the coin is that, in about 50 % of all companies, there is no form of safety and health arrangements for worker representation. Clearly, the rather high score for 'neither' can mainly be explained by the fact that arrangements for formal worker

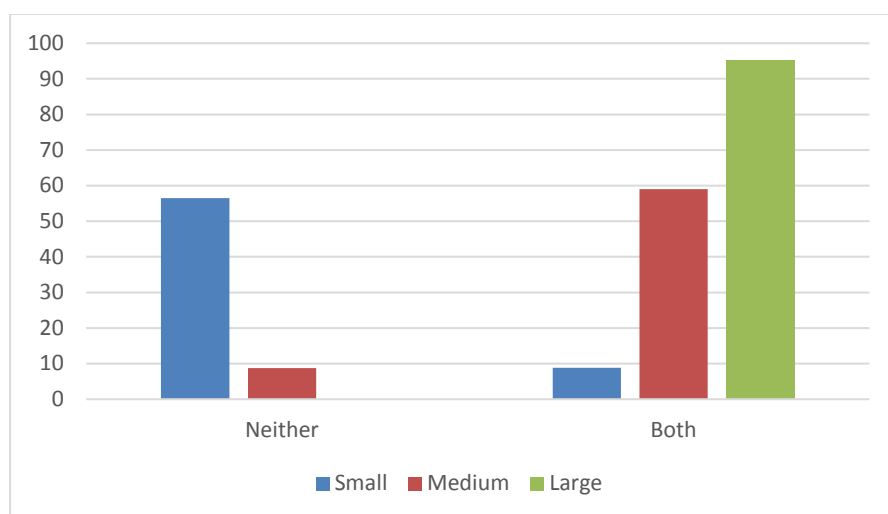
representation are lacking in SMEs (see Figure 10), which make up 98 % of all Dutch companies. According to ESENER-2, over 90 % of large companies have some form of worker representation.

Figure 9: Percentage of Dutch enterprises reporting the presence of general and specialist safety and health arrangements for worker representation



Source: Esener-2

Figure 10: Percentage of Dutch enterprises reporting the presence of general and specialist safety and health arrangements for worker representation by enterprise size



Source: Esener-2.

When compared with Dutch statistical findings, the proportion of large companies claiming to have a works council appears to be a gross overestimation. According to the latest Dutch data, 75 % of all companies over 50 employees have set up a works council, that is, a form of general representation (Visee et al., 2012, p. 7; Inspectie SZW, 2015a, p. 38). In companies with over 200 employees, the proportion is 98 % (Visee et al., 2012, p. 7). However, only half of all works councils have also set up 'specialist health and safety arrangements' (an OSH committee) (Visee et al., 2012, p. 12), so it is quite unlikely that over 90 % have 'both' safety and health arrangements for worker representation. In smaller companies (10-50 employees), only 28 % have set up a general form of representation; therefore, once again, the ESENER-2 findings clearly do not match other findings in the Netherlands (Inspectie SZW,

2015a, p. 38) ⁽⁶²⁾. In this respect too, our own 21 case studies may be considered skewed to the positive side, as the number with some form of representation (or both, in all the larger cases) is clearly higher than the average in the Netherlands (see Visee 2012 and Popma 2003).

This discrepancy may, to some extent, be explained by confusion between two forms of 'OSH representation' in the ESENER questionnaire — or at least, by a misunderstanding on the side of the respondents. The ESENER-2 survey asked about four kinds of worker representation: works councils, trade union representation, safety and health representatives, and safety and health committees. The first two of these were grouped together as 'general' worker representation and the other two as 'specialist' OSH representation.

In the Dutch legal system (both the WCA and the WOR), there is no such form of 'specialist OSH representation'. There are specialised worker representatives in the form of OSH committees, but these can be set up only on the basis of Article 15 of the WOR, which implies that there already is a works council. The figure of 'health and safety representative' is, to our knowledge, non-existent. So-called 'prevention workers' do exist, however. These, on the other hand, should not be considered worker representatives.

Nevertheless, it is clear that in most of the larger companies some sort of worker representation is in place — as has been said above, three out of four have a general form of representation (see Table 15), half of which have an OSH committee. Therefore, less than 40 % of all companies of over 50 employees have specific representation in OSH matters. However, it is clear that those works councils that do not have an OSH committee in place do address safety and health matters regularly (Popma, 2003; Visee et al., 2012, p. 14). On the other hand, in a quarter of all companies that have over 50 employees, there is no form of formal representation; it is present in an even smaller proportion of smaller companies.

Table 15: Percentage of enterprises with works council or employee representatives

Size	Works council	Employee representative body
10-49	16	12
50-74	61	11
75-99	70	6
100-199	84	5
200+	94	1

Source: Visee et al. (2012).

The main reason for employers to institute some form of worker representation, is that they are legally obliged to (74 %), whereas only one out of five employers (21 %) state that they set up a works council because they themselves felt a need to do so (Visee et al., 2012, p. 18).

3.2.1 Knowledge and time

As indicated in section 1.1.2, works councils enjoy various facilities based on the WOR, such as time off work and a right to training. Article 18(3) of the WCA grants works council members a right to pursue training for at least five days per year, with an additional three days per year for members of the OSH committee. The minimum amount of time off is 60 hours per year.

In the interviews, lack of time was often mentioned as one of the main hindrances to effectively contributing to OSH policy, even though some of the works councils or worker representatives reported no problems in this respect. The level of training also varied widely among the respondents and,

(62) Findings by the labour inspectorate indicate that in smaller companies (10-49 employees) the percentage is even lower, about 20 %.

correspondingly, the level of knowledge. During the interviews we met worker representatives who were very knowledgeable and representatives who had very limited knowledge (notably on legal aspects, both on safety and health legislation and on codetermination rights). Practical knowledge on actual working conditions at shop floor level appeared to be better.

This picture corresponds with the findings in various studies on the effectiveness of worker representation in the Netherlands. Time appears to be the asset that is scarcest — as it has always been (Looise and Heijink, 1986, p. 119; Klein Hesselink and Evers, 1994, p. 30; Popma, 2003, pp. 171 van der Heijden et al, 2012, p. 67). In the interviews, it was stated repeatedly that the rather turbulent economic tide has put even more pressure on the time that is dedicated to safety and health issues — both because works council members have to work harder in general and because time for worker representation has to be spent on austerity measures, reorganisations and outsourcing.

Facilities for our work as members of the Codetermination Council? We don't have them any more, due to austerity measures. Workers that were a member of the local council did have time off for their work. Now this is granted only for the overarching Central Codetermination Council.

Works council member at Grammar School.

One of the ways to organise 'extra time' is to set up a specific OSH committee of the works council on the basis of Article 15 of the WOR. The extra time results from the fact that the committee can also appoint regular workers — those who are not works council members themselves — thereby lifting some of the burden from regular works council members. Nevertheless, the case studies indicated that nearly all works councils involved in the present research had set up an OSH committee and still lacked time to perform their tasks properly. Therefore, setting up a committee may be more useful in organising specific expertise than in remedying the time problem.

Another solution that is sometimes mentioned in the literature, and also cropped up in two of the case studies, is to organise worker representation in a slightly different manner.

I would suggest that the works council itself is cut back to something of an 'executive committee', which reaches agreement on the way projects are being organised and how workers will be involved. In that case, it will not always be the same workers investing their time. If you spread the burden of worker participation somewhat, more workers will be willing to invest some time in it. However, this also does require a director who shows that he deems worker participation important

OSH manager at Twin City.

Nevertheless, this suggestion is more of a solution to the problem of vacancies in works councils (which is widespread; Visee et al., 2012, p. 12.) than to the time problem itself. Even if the time spent on formal worker representation were spread more evenly, it would not limit the need of time in itself. As long as the time to be spent on worker representation is not adequately calculated and allotted, the time problem will remain and will only add to the large group of workers who report that they have too little time for their regular work anyway (Parent-Thirion, 2012, pp. 71-72).

Knowledge too is an asset that is hard to build and decreases easily. To start with the first: even if, according to ESENER-2, most safety and health representatives may enjoy training (see Table 16) the number of training days has fallen steadily over the past decade (see Table 16), and has continued to decline since a change was implemented in the financing of works councils training in 2013 (see box 'The market for training of worker representatives').

Table 16: Are the safety and health representatives provided with any training during work time to help them perform their safety and health duties? (ESENER-2, Q354) (%)

Yes	No	Yes, but only some of them	Total	No answer
79	17	3	100	13.2

Note: asked only of establishments that have health and safety representatives (Yes to Q166_3).

Table 17: Training facilities for worker representatives (%)

Facility	Works council (≥ 50)			Employee representatives (< 50)		
	2005	2008	2011	2005	2008	2011
No training	8	11	9	50	54	58
Sporadically	13	14	21	27	27	24
Annually, but less than five days/year	45	51	52	17	17	14
Five days/year	35	25	18	6	2	4

Source: Visee et al. (2012, p. 21).

There may be several explanations why worker representatives do not use their right to the full. The most basic is that representatives are unaware of the fact that they have a right to training.

We don't attend training. I did not even know training for workers representatives even existed.

Employee representative at Screelec

In addition, training is not provided for in companies without formal representation.

The market for training of worker representatives

In the Netherlands, there has been a long tradition of training and advising works councils. Between 1975 and 2013, coordination of training was in the hands of the *Gemeenschappelijk Begeleidingsinstituut Ondernemingsraden* (GBIO; Joint Support Institute for Works Councils), a bipartite organisation that controlled the quality of all training bureaux and administered financial contributions for the training of members of works councils. The GBIO paid nearly half of the expenses of works councils' training. The funding for these subsidies was acquired by means of a small tax that was placed on all companies that fell within the scope of the WOR. This system was typical of Dutch corporatism: it was ordained by the social partners (both unions and employers) and then legalised and executed by the state.

In 2013, however, employers withdrew their support to this arrangement and the Dutch market for training works councils was completely overhauled. Currently, the country has dozens of independent training institutions for members of works councils, with only limited quality control⁽⁶³⁾. More importantly, since the abolishment of the financial contribution system, employers must bear 100 % of the costs of training of their works council. As a result, overall demand for training days has diminished quite drastically (not only in the field of safety and health)⁽⁶⁴⁾. According to one of the key informants, employers are less inclined to grant works councils permission to use their right to training, to use it to

(63) A new form of quality control has been organised, however, through the Stichting Certificering Opleiding Ondernemingsraden (SCOOR; Foundation for Certification of Training of Works Councils), an independent foundation closely linked to the SER. In the past, only bureaux that were affiliated to the GBIO received funding, whereas SCOOR accredits works councils' trainings only on a voluntary basis and the SCOOR certificate has no other value than being a mark of quality.

(64) CBM (2014, p. 28) indicates that the number of training days fell by 30 % between 2012 and 2013.

the full extent or to spend as much money as they did before 2013. Some works councils are more reluctant to use their rights of their own accord. On top of this, many employers demand that their works councils use tender procedures to select a supplier, for instance by preselecting at least three potential suppliers.

According to the key informant, there appears to be a change in the trend, which is now moving towards the abolition of OSH committees, apportioning all subjects with which they concern themselves among all works council members. The informant is under the impression that works councils tend to have fewer committees (that is, not just in this field) and that the committees operate without enthusiasm, lacking the means to conduct their work as usual. It is a trend that, if it persists, could damage the attention to safety and health issues.

In some cases, managers are also invited to join (parts of) the works councils' training sessions.

It really works fantastically to have such short lines of communication with the worker representatives. If I want to have their opinion, I can get it at short notice. Also, there's more time to discuss issues during such meetings.

OSH manager at NoFer

Nevertheless, even if representatives do attend training and there is a knowledge base, this tends to crumble quite rapidly because many works council members leave the works council after their first term (mostly three years) because of lack of time and pressure of work. This is one of the main reasons why works councils have difficulty building a more solid knowledge base.

Another barrier to building high-quality works councils is the problem of getting staff who have had higher education to join the works council. According to the management representative at Crossroads, it is particularly difficult to enlist employees in the higher segment of the working population, which leads to a crumbling of the quality of the works council.

Ninety per cent of our staff are health practitioners, and these practitioners are bound to account for their use of time. Eighty-five per cent of their time should be dedicated to 'direct' care activities, which is extremely high. In other care facilities, it is 80 %, which in itself is also rather high. At Crossroads, it used to be 80 % as well, but because there were financial problems this was raised to 85 %. This is one of the main reasons why practitioners refuse to join the works councils or even step down from it

Management representative at Crossroads.

3.2.2 Shop floor visits and contact with constituency

Knowledge can of course be built in other ways than training, notably by walking around on the shop floor and having frequent contact with co-workers (in the terminology of works councils, the 'constituency'). Previous research found that safety and health was the subject that aroused most initiative on the part of the constituency (van Ewijk et al., 2004, p. 9).

In the case studies, it was found that most of the worker representatives had relatively good relations with their constituency (van Ewijk et al., 2004, p. 8; van der Heijden et al., 2012, p. 22) ⁽⁶⁵⁾ and that the contacts with the constituency were rather diverse — from well-structured and deliberately organised contact (including town hall meetings, regular written information to the constituent workers, websites and so on) and more or less frequent one-to-one contact at shop floor level, to poor or no contact whatsoever. In this respect, the cases appeared not to differ from the typologies developed in previous surveys.

One of the most proactive examples found in the current research was in the case of Twin City:

We organise a Café d'OR on a regular basis. This is an informal way of meeting with our constituency. The signals we receive on health and safety, notably work pressure, are passed on to the team leaders. In some cases, when workers complain that their team leader does not

(65) Previous research found that, in most companies, the influence of the constituency on the functioning of the works council ranges from limited to non-existent. Only 10 % of works councils claimed that its influence was 'strong'.

listen to them, it turns out that the team leader has not been approached by the worker at all. That's why we always want to hear both sides.

Works council member at Twin City

In addition, the works council of Twin City organises the elections in such a way that each and every component of the organisation is represented in the works council. This is a strategy that has been chosen by other works councils as well, such as Glasswool.

On the other hand, we also encountered works councils that clearly did not reflect the composition of the workforce. At Crossroads, a mental care institution, the psychiatrists and psychologists are so busy that they do not have the time to participate in the works council.

For this reason, it is tempting to draft all works councils members from Facilities. There are no care practitioners working over there. Also, participating in the works council is tempting for employees from Facilities, as they get to hear more about the organisation. However, being a works council member entails much more than they expected. It does cost a lot of your spare time, but they only found out later. After a while the activities of the works council became such a burden for my team that I have asked the chairman of the works council to temporarily not draft workers from Facilities.

Facilities manager at Crossroads

One of the major problems of worker representation, however, is when a constituency simply is not interested in the activities of the works council. This was mentioned in a number of cases and was most sharply voiced by the works council member at Barrel.

I think that we as a works council are doing a good job here, but there's no response from our constituency whatsoever. The workers are actually brainwashed, and are only focused on their job.

Works council member at Barrel

If you ask workers what's topical for them, they don't react. But later on, they complain that you're not communicating with them.

Works council member at Moon Chemicals

Nevertheless, there are ways to strengthen the ties between worker representatives and their constituency. In various cases there were examples of works councils setting up a complaints box (or rather ideas box), newsletters, websites and so on. This, according to some of the interviewees, is really helpful in getting information on safety and health issues at shop floor level. On the other hand, there are works council members who have complained that these tools do not yield any response. Therefore, the picture is diverse.

We have an idea box, but it's always empty.

Works council member at Screelec

What may be interesting in this respect is that workers often report that they prefer face-to-face contact with 'their' works council member (Visser and Rosbergen, 2004). With this in mind, the most effective strategy may be to organise the elections of the works council in such a way that all divisions of the company are represented and face-to-face contact is much easier. This is the approach of the works council of Twin City, as well as of Hopital and Glasswool.

We are present everywhere.

Works council member at Glasswool

In addition, contact with the specific groups within the constituency that are directly involved may be organised in order to discuss specific issues.

Our contact with the constituency may not be 100 %, but in case of important issues there's always contact with those who are involved. And if advice by the works council is important for one specific group, we always get back to them within half a year, and ask them how things are running.

Works council member at NoFer

In smaller companies, there is obviously no need to address the constituency in a formalised matter.

Contact with the constituency is quite good. They're always in close proximity. Actually, the main problem is how to fend them off every once in a while

Member of codetermination council at Grammar School.

In addition, in the smallest companies it was clear that matters concerning safety and health were addressed directly with relevant workers on a day-to-day basis when necessary. The employers in the smallest companies noted that they had no need for worker representatives.

If workers have an issue with health and safety, they can directly turn to me

Manager at Villekula

We have a plenary meeting with all staff every three months. During that meeting, we also discuss all residents of our shelter with their specific risks. But we also have one-to-one contact every day. Look around you, we see each other all day. And the residents too know that everyone knows everything. That's clearly preventive. And that's also why we decided we want to stay a very small facility

Manager of Shelter Lodge.

Nevertheless, it is clear that a strong connection with the constituency is of great importance — in fact, according to the key stakeholder from the Dutch trade union, it is the single most important factor for effective worker representation. This, admittedly, also depends on the company's vision on the use of worker representation. In the Dutch WOR, the goal of worker representation is twofold: both to contribute to the proper functioning of the organisation in all its objectives and to represent the interests of the workers. If one puts more emphasis on the latter, it is clear that a strong link with the constituency is all that matters in worker representation. If a company is more inclined to stress the more pragmatic use of worker participation — that is, workers contributing to operational safety and health management — then the role of works councils or other forms of formal representation, as well as the importance of a strong link with workers at shop floor level, may be taken more lightly. However, even from a merely operational point of view, a strong link between the works council and the workers appears to be effective in reaching better safety and health in the workplace (Popma, 2003). Even if actually establishing such a connection may be daunting, the cases did show some examples of effective communication with the workers.

3.3 Use of legal power and other sources of power (trade unions, labour inspectorate)

Even though labour relations are considered to be quite cooperative in the Netherlands (Knegt, Mevissen et al 2001) ⁽⁶⁶⁾, the relation between employer and workers can always be described as a power relation as well. Sometimes this power relationship is quite overt, for example in the case of strikes or lockouts. In other cases, the power base of workers may be more hidden, such as in the legal right to call in the help of the labour inspectorate. In other cases, the power relation may even be indiscernible, such as in the use of the legal powers on the basis of the WOR — which some may not consider a source of power because they are commonly taken as a matter of fact. However, it is clear from the history of Dutch labour law that labour law in general, and OSH legislation specifically, is devised under the umbrella of *ongelijkheidscompensatie* (compensation of inequality) (Betten et al., 1997). In this section, four forms of power are described: (1) legal powers on the basis of the WOR; legal powers on the basis of safety and health legislation (both (2) substantive provisions and (3) the labour inspectorate); and (4) legal powers on the basis of labour relations (bond with trade unions).

(66) For example, it was found that over 90 % of the working times regimes were decided on harmoniously.

3.3.1 Works Councils Act

As has been described in section 1.1.2, the Dutch WOR and safety and health legislation attribute clear legal powers to the works council in the field of OSH. In some respects, these reflect the provisions of Framework Directive 89/391/EEC or Directive 2002/14/EC on consultation and information. In other respects, however, they go well beyond these minimum requirements. Most specifically, Dutch works councils have a right to veto proposals by the employer to instigate safety and health measures in the company. This right of approval turned out to be quite effective in some of the cases, as will be illustrated below. First, some evidence on the use of more basic legal powers will be presented.

The most basic is the mere existence of a works councils at company level. As has been described earlier, the fact that there has been a legal body on works councils for over 60 years now has led to a situation where the works council is generally accepted now — especially in the larger companies (see section 3.2). This was also the case in the interviews that we have conducted. In addition, the works council's basic rights to consultation and information have not really been disputed, either in our case studies or in general (Popma, 2003). Disputes may arise in specific cases, or information may be lacking or tardy, but Dutch jurisprudence on the right to information (Article 31 of the WOR) is clearly on the side of the works council (Vink and van het Kaar, 2015, p. 237). Therefore, firm statutory provisions in these respects have clearly contributed to the acceptance of worker representation in the field of OSH.

More specifically, the works council has two other powers that are of use in the field of OSH: the advisory power of the works council (Article 25 of the WOR) and the right of approval (Article 27 of the WOR, but also Article 14/14a of the WCA).

In the case studies, there were abundant examples on the effectiveness of these powers, notably on the right of approval.

Currently, we are flooded with a tsunami of requests for advice and for approval.

Works council member at RollingPress ⁽⁶⁷⁾

What is topical now is a request for approval of medical examinations. We received a lot of paper, rather a thick book actually. But we missed a clear overview of who, what and why. The boundaries were drawn way too wide. Every production worker could be included, but the Medical Examinations Act is quite clear on this: the physician should describe the specific need for such examinations, to whom they apply, and the criteria on which to conduct such an examination. It was all missing, which we considered rather unsatisfactory. So we refused to approve of the examinations. Now our director has promised that it will be settled appropriately.

Works council member at NoFer

Sometimes, it is not so obvious that specific issues fall under the right of approval, in which case it is very helpful that a limited number of issues are listed in Article 27.

The influence from the Indian owner is a real cause for concern to us. Sometimes they really go against the grain of the Works Councils Act. 'Does a change in the personnel handbook fall under the right of approval? Sorry, we didn't know.' That really caused a lot of annoyance on the shop floor level.

Works council member at Dutch Delhi

In general, however, at least in the cases where the works council is aware of when the right of approval applies (which is not always the case, see section 2.1.2), the procedures concerning the right of approval in safety and health matters are respected fairly adequately in two-thirds of all companies — meaning that in one-third they are bypassed on a regular basis (Popma 2003, pp. 178-180) ⁽⁶⁸⁾. In addition, the use of the right of approval does lead to changes in the initial plans and better decision processes

(67) It is true that most of these requests dealt with other issues than safety and health, but the quotation is indicative of the work load some of the works councils are experiencing and also of the fact that such requests are very common in the Netherlands.

(68) The right of advice, on the other hand, is much more contentious, giving cause to numerous cases at the Amsterdam Court of Appeal. However, these cases deal not with safety and health matters, but instead with the strategic issues listed in Article 25 of the WOR.

(Popma, 2009a). Therefore, even if compliance with Article 27 could be improved, its existence is clearly a powerful tool for worker representatives in dealing with safety and health measures.

As concerns the use of the right of advice, we encountered no examples in which Article 25 of the WOR was used strategically to improve safety and health, for example by requesting advice concerning restructuring to address work pressure or by checking investments in equipment or buildings for conformity with safety and health requirements. As was indicated earlier, works councils in general have a tendency to overlook the strategic impact of OSH (or the OSH impact of strategic decision-making (see Popma, 2003, pp. 186-187)). Running counter to what might be expected, this is not better in companies in which the works council operates more professionally, that is, by having set up an OSH committee (Popma, 2003, p. 207). In fact, according to the key informant from the training bureau, the nexus between OSH and more strategic matters, such as restructuring or investment, is weaker in cases where training is pursued by a specialised committee: 'OSH committees rarely link health and safety to strategic decisions that the employer has to consult them about under paragraph 25 of the Works Councils Act'. According to the informant, an integrated approach by works councils that address safety and health as an integral element of their work is much more effective in guaranteeing a more strategic focus.

The same issue was addressed in the interview with the key informant from the employers' organisation.

BvL: You would think that the aim of the risk assessment should be to put the subject on the agenda at least once a year to be discussed with everyone involved. But that does not happen. The conversation about it takes place in committees, where only specialists take part.

CH: Indeed it is addressed technocratically. There's a sense that it happens too much in isolation. I myself have worked in companies that recognised that. Then the health and safety coordinator or manager would go in conversation with employees, through workshops. They would use photographs as a basis for discussing what could go wrong and what was going well, 'toolbox meetings' were held. So these companies did acknowledge it. But I recognise the issue: many discussions are squeezed off the agenda in the consultations, including in the Works Council. While many of the topics we discussed — commitment, the experience of meaningfulness — are also related to safety and working conditions. So that should also be discussed. And that doesn't happen enough. It sometimes becomes: 'We have had no complications with machines? OK. No accidents happened? OK. So it's no longer an issue.' While it is always an issue. The challenge is to maintain the dialogue with employees, and to make a joint effort to implement adjustments and improvements. Also with the Works Council. But that is also under pressure, as I told you earlier.

The current trend that, according to one key informant, works councils tend to have fewer committees could in this respect be seen as a step in the right direction. However, this trend should not be encouraged as a strategic repositioning; the main reason for axing these committees is not so much a strategic choice as the lack of time or volunteers to manage such a committee. It is therefore not likely that this trend will lead to a better connection between safety and health and strategic issues.

A truly strategic approach that makes health and safety themes part of the dialogue about strategic decision-making processes is not common. The fact that some OSH committees cease to exist is not a sign that such an approach is gaining momentum. It rather signifies that works councils are hindered by a lack of means, something that brings down their overall training attendance as well.

Key informant (works council trainer)

Of course, this is not to say that works councils should refrain from setting up OSH committees. These clearly serve to build knowledge in the field of OSH. They are also a means of involving more workers in the activities of the worker representation (not all committee members have to be a member of the works council). However, what it does say is that, in cases where the works council sees fit to set up a committee, it should consider the relationship between OSH issues and other, more strategic elements in the practices of worker representation.

3.3.2 Clear occupational safety and health provisions

Since the mid-1990s, the OSH policy of the Dutch government has been no longer to issue very strict OSH provisions and instead to issue more goal-oriented ones. This would, according to the philosophy of self-regulation, leave more room for tailor-made and more effective OSH measures at shop floor level. Currently, the Dutch Minister for Social Affairs is trying to promote this approach at European level as well (see section 1.1.3).

However, this approach of general provisions may be criticised for leading to legal uncertainty, whereas an approach of tailor-made covenants or OSH catalogues may entail inequality of rights between different sectors (Popma, 1999, 2008). In addition, both employers and worker representatives may be kept in the dark on what to do in order to comply. In some cases, by contrast, it is most helpful to works councils if the government issues clear-cut legal provisions. One example is the regulation of organic solvents, which were found to cause psychoorganic syndrome (POS) among painters and printers in the 1990s ⁽⁶⁹⁾. After the introduction of clear-cut provisions in the Dutch Working Conditions Regulation, which required that solvents should be substituted for less hazardous alternatives, the number of cases of psychoorganic syndrome reported to the Netherlands Centre for Occupational Diseases fell sharply.

This use of strict substitution provisions also came up in one of the case studies.

Every year, I have a funeral, which I find very tragic. I consider this to be a legacy from the past, when we used to work in other ways. For example, we used a lot of solvents such as toluene and white spirit. Today, we are working with water-based ink.

Manager at RollingPress

Legal provisions such as a duty to substitute, occupational exposure limits and so on may help the worker representatives to mark out the playing field within which to negotiate an OSH policy at company level. The same applies to the working time legislation in the Netherlands. The Dutch Working Times Act is based on a system of negotiation between employer and works council on the basis of Article 27 of the WOR, but has to be agreed on within a framework of material provisions on the maximum hours of work and the minimum hours of resting time. The latest revision of the Working Times Act in 2007 has greatly reduced the complexity of the former version of the act, thereby improving legal certainty.

Nevertheless, in the interviews, we did not encounter many cases in which direct referral to material provisions in safety and health or in working times was used to strengthen the position of the worker representatives (or, for that matter, of the workers). One clear example, however, was the works council member at NoFer.

By the expression 'rules are a weapon' I mean that many people on the shop floor level just take for granted everything the manager is saying. But I say: 'there's a lot on paper. Don't swallow everything your boss is telling you, but look on that paper.' I also inform subcontractors. 'Look closely what's on the permit', I tell them. 'And ask questions if you don't understand what's on the paper.'

Works council member at NoFer

In another case, the OSH manager said that he would have liked more clarity on how to interpret the legal provisions.

I have asked the labour inspectorate time and again to be clearer on the question whether or not we interpret the legal obligations in the right manner. However, the inspectorate has not responded to our repeated request. So now we're not sure where we stand. Maybe we're doing too little, or maybe too much. But we're not going to know for sure if the inspectorate does not respond.

OSH manager at Moon Chemicals

(69) Psychoorganic syndrome (POS) or chronic toxic encephalopathy is a progressive disease comparable to presenile dementia, in many cases due to exposure to solvents such as toluene.

3.3.3 Labour inspectorate

As has been stated previously, all workers and their representatives have a right to call upon the labour inspectorate when they think their employer is breaching his or her legal duties. The trade unions, in their turn, can bring in the inspectorate to conduct an investigation. In addition,, it has been decided in the internal instructions of the inspectorate that complaints that are submitted by trade unions or works councils should always be responded to (complaints by *individuals* are acted upon only if the complaint appears to be connected to serious risks). These, in theory, could be viable strategies to force the employer to take action. In practice, however, this power source is seldom tapped into. For example, the works council may file a complaint to the labour inspectorate, but the number of actual complaints coming from works councils is rather limited, at about 30 annually (Inspectie SZW, 2015a, p. 33). One of the reasons for works councils' members not to call in the help of the labour inspectorate is fear of repercussions. Even if the inspector should not disclose the names of those who have alerted the inspectorate and works councils' members enjoy legal protection against unfair dismissal, it is quite clear that works councils are reticent because the employer could opt for other forms of reprisal. Therefore, using this tool to pressure employers to comply with their legal duties has a clear drawback.

Another shortcoming in the system is that it is not possible for workers to call in the support of the labour inspectorate when the employer breaches the legal obligation to cooperate in OSH policy (Article 12 of the WCA). Article 12 is not upheld by public authority, let alone in compliance with other provisions of the WOR. The labour inspectorate does not have a formal role in enforcing social dialogue between the employer and worker representatives. More importantly, the WOR does not supply a legal basis for interference by the labour inspectorate. Any conflicts in this field could be taken to court on the basis of Article 36 of the WOR.

In addition, the key informants of the labour inspectorate testified to the limitations of a potential alliance between the works council and the inspector when there is a poor working relationship between the employer and the works council.

Sometimes the inspector can see the powerlessness of the works council vis-à-vis the employer, and we can try to ask questions concerning their legal rights such as the right of approval, but there it ends. It is not our role to tell the works council how to proceed. The inspector can try to do so informally, but we cannot address the issue in our official correspondence.

Key informants of labour inspectorate

In the case studies, the role of the labour inspectorate appeared to be nearly non-existent. This is not surprising given that, on average, the inspectorate visits an establishment only once every 30 years. Only factories that fall under the Seveso Directive are visited on a more frequent basis (every one to three years). In addition, over the last 20 years, the number of inspections has diminished quite drastically: from 87,000 annually in 1996 to fewer than 20,000 in 2012 (Inspectie SZW, 2013, p. 40).

Nevertheless, in our research there was one example in which the works council effectively teamed up with the labour inspectorate. This was also to the benefit of the OSH manager.

I had tried to convince the management of our hospital that action had to be taken in the field of physical risks such as heavy lifting, pulling and pushing. According to management, this would be too costly. However, when the works council became involved and notified the labour inspectorate, this clearly led to a change for the better. The fact that the works council knew of the problem of physical work load, and took action, improved the situation enormously.

OSH manager at Hospital

3.3.4 Trade union

A fourth source of power for workers (and worker representatives) is to form an alliance with the trade union. Various studies have indicated that a close bond with the trade unions is very helpful in obtaining results in safety and health policy at company level (Popma, 2003). First, unionised companies have set up a works council more often than companies with low trade union membership (Visee et al., 2012, p. 20). Second, close contact with the trade union is clearly correlated with the willingness of the employer to respect the right of approval (Popma, 2003, p. 181). Third, unionised works council members tend to have a closer bond with workers on the shop floor and they are more keen on themes

that directly involve the interests of workers ⁽⁷⁰⁾. As indicated in the WOR, the works council serves a dual purpose, not only in regard to the interests of the workers but also regarding 'the interests of the proper functioning of the enterprise with respect to all its objectives' (Article 2 of the WCA). The fact that the unionised works council members are more keen on the interests of the workers may give them a stronger position among the workers and, thus, a stronger power base if need be.

Because of historical reasons, however, the bond between works councils and Dutch trade unions is not very strong. Even if trade union representation is higher than average in the works councils, trade unions have, for a long time, taken an ambivalent position in regard to the role of works councils. In the 1970s, the works council was seen as a tool of employers to break the role of trade unions at shop floor level. For this reason, strong ties with the trade unions are not very common in the Netherlands.

I am a trade union member myself, but as a member of the works council I have never contacted them. I would not even know whom to call. I could find out easily, but I think it's not necessary.

Works council member at Grammar School

In addition, the activism that may be associated with an active trade union presence at shop floor level is not really embedded in the Netherlands ⁽⁷¹⁾. More generally, even when working closely together, the Dutch works councils and trade unionists do not use very activist approaches, such as exerting pressure or blocking negotiations. In comparison with German works councils, the Dutch resort more to 'helping the director in finding solutions', 'supplying management with facts' and 'supplying management with knowledge of shop floor practices' (Sapulete and van Witteloostuijn, 2015b). This was also experienced in a case where the director was from Belgium.

In the Netherlands, works councils members are much more willing to cooperate, instead of behaving like old-school trade unionists. I think that our new director, of Belgian descent, was very surprised when he found that out.

Works council member at RollingPress.

More recently, however, the FNV has taken a more active role towards works councils ⁽⁷²⁾.

Nevertheless, there were some cases in which the works council members interviewed indicated that they cooperate closely with the trade union, but that is mainly on subjects other than OSH.

We have three union factions within the works council. I am an FNV member myself. Our trade union official is always around, and can be contacted all the time. The bond that we have is not present in most companies. But here, the trade union is really on top of business. I think that we are organised for 60 % or so, at least in the factory. In the office department, there are virtually no trade union members. It's really a shop floor thing, quite traditional

Works council member at Dutch Delhi.

To us, the trade union is very important, and we have a good relationship with them. They have professional officials who know a lot about groups of comparable companies. We have an official who is in close touch with us. We can e-mail him, call him, and he's always welcome.

Works council member at Hubbers

The trade unionists are not always welcoming to management, though:

When workers are having a conflict with their superior and they have to have a meeting with HR [human resources], they are always accompanied by a trade union official. I think this is quite peculiar, especially if it's the first meeting. It indicates that they don't trust us. But then, on the other hand, such a trade unionist also can play a beneficial role. They have often received good training.

(70) Interview with key informant from the trade union.

(71) Interview with key informant from the trade union. Also see Popma (2003, p. 217), who identifies just 10 % of all works councils as really activist.

(72) Interview with key informant from the trade union.

Manager of Dutch Delhi

However, even though we came across some cases where the trade union did have some sort of presence — and we also got the impression that the workers' influence on safety and health management was more solid in these companies — the direct link between trade unionism and effectiveness in the field of OSH was not evident.

This general view may also be deduced from the interview with the trade union key stakeholder. Even though this respondent said that 'contact with shop floor' and 'active contact with trade union' are the two most forceful factors in effective worker representation, he admitted that the role of the trade unions in this respect had been suboptimal over the last decade or so. According to the respondent, however, a more active approach by trade unions officials in relation to works councils is one of the priorities for the next few years.

It should be the task of the trade unions to activate workers, but we have bred an entire generation of trade unionists in a culture of consultation and compromise. The last few years, the FNV is pursuing a strategy to bring back the activism in OSH (and workers' representation in general). However, most works councils still have to be convinced that they could, and should dare to, become more activist.

Key informant FNV

Admittedly, this would be like swimming against the current: the number of trade unionists has been on the decline ever since the Second World War (see Table 1.2).

3.4 Support (or not?)

Over the past two decades, a shift has taken place in the Netherlands from strong government involvement towards a policy to further self-regulation, at both company and sector level. This shift towards self-regulation has entailed two important developments that might be considered to support employers and worker representatives in taking up their responsibility at company level. The first is the development of easy-to-use risk assessment tools — currently known as the OiRA (Online interactive Risk Assessment), which is endorsed by the European Agency for Safety and Health at Work (EU-OSHA) ⁽⁷³⁾. The Dutch risk assessment tools are now available in more than 170 sector variants, each tailor-made for the needs of a particular sector. The second development is the rise of the so-called OSH catalogues since 2007. These catalogues are meant to further specify the general broad target regulations drawn up by government (notably in the Working Conditions Decree) and to provide employers and workers with examples of best practices in their sector, thereby fleshing out the general legal notion of 'state of the art' (Article 3(1) and 5(4) of the WCA). Once again, 'tailor-made regulation' is the philosophy behind the government policy to stir social dialogue on OSH matters. There are now over 180 OSH catalogues, which cover nearly half of the Dutch working population.

Clearly, both these developments could support both employers and workers (or worker representatives) in their respective roles in OSH policy at shop floor level. For this reason, the research enquired into the knowledge on the part of the interviewees on these tools as well as into their use in practice.

3.4.1 Risk assessment tools

As was indicated previously, there are now over 170 sector-specific risk assessment tools in the Netherlands, most of them based on the 'mother' tool for SMEs (which is also at the basis of the OiRA tool, which is now promoted by EU-OSHA). In most cases, these tools were developed by OSH specialists, but were then, in many cases, checked and approved by the social partners in the sector. This should guarantee the good quality of the tools as well as support by both the employers and trade union. However, in the 21 case studies, hardly any of the interviewees had any knowledge of these tools. Only the management representatives at Screelec and Hopital had anything to say about the tools. Nevertheless, these respondents were rather supportive of the tools.

(73) <http://www.oiraproject.eu/about>

When I first arrived at Screelec, many of the printers complained about lighting, the exhaust systems, noise and logistics. I started off with the method 5xBeter of MetaalUnie and FME, the employers' organisations in the metal branch ⁽⁷⁴⁾. It consists of more than 100 control items. I ran them over one by one, without skipping any single one. After that I said 'you are right, I will change things around here.' Not everything in the present building. That would be infeasible. But after the event I got rid of all substances without material safety data sheets. There were some seriously dangerous ones among them.

Director of Screelec

I disseminated short surveys as part of the risk assessment tool Zorg-RIE ⁽⁷⁵⁾. These surveys force the workers to consider their working conditions. The instrument is rather simplistic, with a strong emphasis on good/wrong/don't know. But this simple approach works rather quickly, and sometimes it does lead the workers to indicate that some risks are missing in the risk assessment, or that they were not fully aware of certain issues.

OSH manager at Hospital

On the other hand, these two tools are noted to rank among the best in the field. 'The quality of the various tools varies widely', according to one key informant from the labour inspectorate — meaning that many of them are of rather poor quality. Furthermore:

Many of these tools do not address all relevant issues or risk categories, and many do not solicit worker participation. Many of the tools appear to purport to follow a workplace-oriented approach, but in fact they are merely a checklist to be filled out behind the computer. You do not have to check at the workplace. Performing a risk assessment may have become too easy.

Key informant at labour inspectorate

This critical note agrees with a previous analysis of survey data provided by the labour inspectorate, which indicates that risk assessments based on a sector model appear to be slightly, yet significantly ($p < 0.01$), less effective in listing all relevant risks than risk assessments based on a tool developed by a professional OSH service (Popma, 2009a, p. 89).

Another critical comment by the labour inspector states that 'by just filling out the risk assessment behind the computer, worker participation is kept at a distance.' This was also the experience of one of the researchers in another project (Popma, 2013b). During a meeting of the Dutch employers' organisation for SMEs (MKB Nederland), the policy advisor of MKB Nederland was very enthusiastic about the risk assessment tool that had been developed by the Dutch focal point of EU-OSHA. As she exclaimed, cheerfully, in the presence of one of the researchers: 'we had a session with some 15 employers, and filled out the risk assessment from behind the computer. It took us no more than just one hour'. Even if this last example may be anecdotal, it was quite telling about the attitude some (if not many) of the employers hold to worker participation in the process of risk assessment: who needs worker involvement if there is a handy DIY tool at hand?

Another criticism was raised by the trade union official, who claimed that 'risk assessment has increasingly become the domain of OSH experts.' Both strands of criticism are in line with previous findings (Peters and van Hoorn, 2002, p. 10), and were also the main motive for developing a tool called 'Participatory Risk Assessment', endorsed by the former organisation of works council trainers (GBIO) in 2009 (Popma, 2013b). Despite having been received well by over 20 works council trainers in 2009, in addition to some fine examples of the potency of the method, the use of the method is not very widespread. Nevertheless, the OSH section of the largest trade union, FNV, has recently, as part of its more activist approach to safety and health, readopted the methodology as a means to address OSH issues and strengthen trade union visibility at shop floor level.

(74) <https://www.5xbeter.nl/site/>. The tool is actually a joint project and was developed in close cooperation with the trade unions.

(75) <http://www.zorgrie.nl>

3.4.2 Occupational safety and health catalogues and collective labour agreements

Another potentially useful tool to strengthen the position of worker representatives is the OSH catalogue which addresses issues on safety and health. Reference to the latter was found only in very few cases.

In our collective labour agreement there is a stipulation on solvents, but it is only a procedural arrangement. It is not on kinds of solvents or occupational exposure limits.

Works council member at RollingPress

Previous research indicated that collective labour agreements (as well as the older OSH covenants, the forerunners of the OSH catalogues) seldom contained substantive provisions on prevention, but mainly referred to the need to conduct research or to give training. These kinds of agreements cannot be enforced in a court of law (Houtkoop et al., 2007, p. 21).

The OSH catalogues, too, play only a marginal role in setting clear-cut standards (van Vliet and Venema, 2011) ⁽⁷⁶⁾. Most of the catalogues do, however, contain guidelines for good practice — even if these guidelines debatable quality — as was mentioned by the key informants from the labour inspectorate. Even if the OSH catalogues are meant to describe the ‘state of art’ in specific sectors, it is not guaranteed that they do so. The inspectorate does not actually inspect whether companies comply with the state of the art but rather if they comply with the much more general provisions in the Working Conditions Decree. On the other hand, both informants did know of examples of OSH catalogues of good quality, which may prove to be of assistance to worker representatives as well — ‘but not too many’.

Another shortcoming in the system is that half of the workers do not fall under the scope of a catalogue at all and also, perhaps even more sobering, two-thirds of all employers have never heard of OSH catalogues; of the remaining third only 56 % are ‘fully aware’ of their contents and 14 % do not use them (Inspectie SZW, 2015a, p. 41). Therefore, only 16 % of the employers claim that they have adequate knowledge on the contents and actually use it, whereas this percentage is even lower in regard to workers. In the case studies, too, knowledge of the catalogues was rather poor.

The key informant of the employers’ organisation appeared to be very surprised when confronted with these findings.

If you say that the percentage of companies that responded with recognition would be closer to 10 % than 40 %, I find that quite shocking. We knew that awareness would fade once the government stepped back. At least in view of the economic situation. It's quite understandable that these circumstances prevailed during the crisis. At those times, occupational health and safety continues to be important, but is not a priority. Neither is the OSH catalogue.

He also indicated other vulnerabilities in the system.

One hundred and seventy health and safety catalogues have been produced, but there could have been more. One thing that I think was lacking at one point was a clear direction for the future. This may have led to a lack of new initiatives. Employers and trade associations sometimes also lacked the will to give priority and publicity to it. It's vital for branch organisations to discuss these matters with their members. When subsidies were available, it all worked rather well. When these were withdrawn, it was less successful. It is difficult unless there is a financial incentive. That's the fact of the matter, unfortunately.

You must keep it alive. It must have an owner. Often there isn't, and then it's dead in the water. And that's a bit what's going on with the catalogues. Someone needs to follow through on them. That must be the branches actually, but often they don't have the money.

The key informant's counterpart from the trade unions was also rather critical of the catalogues, specifically regarding the lack of strict and clear-cut OSH standards. In his view, the drafting of OSH catalogues is left to the OSH specialists too often.

(76) In an evaluation of the OSH catalogues in 2011, it was found that two-thirds of all catalogues contained only very general ‘solutions’ such as ‘use PPEs’, ‘devise an OSH policy’ or ‘instruct workers on the risks’.

This is mainly because trade union negotiators lack the knowledge, the time and often the motivation to actively get involved in OSH matters. There may be some exceptions, but in most cases the catalogue is drafted by the specialists, which may in some cases be submitted to peer review by specialists of the FNV, but there is little real negotiation going on as concerns the content or specific OSH standards. But this is precisely what would be most helpful to works councils members (and workers in general): strict and clear-cut OSH standards/norms instead of the current strand of self-regulatory standards. Also, I think that only a minority of works councils are aware of the existence of OSH catalogues.

Key informant at FNV

Nevertheless, in two of the case study companies, the works council did make use of an OSH catalogue, notably to train workers and fine-tune the current risk assessment.

We had an issue with work pressure, and then I pointed out the existence of the OSH catalogue to the workers. It contained good solutions for handling work pressure, and these have actually been picked up.

OSH manager at Hopital

Recently, we have run through the existing risk assessment using checklists and the OSH catalogue.

Works council member at MentaWorks

I do have knowledge of the OSH catalogue. But I'm quite experienced in the field, so it did not really add to my knowledge in health and safety.

Manager at Villekula

However, in short, even if the OSH catalogue may play a helpful role in the functioning of works councils, its quality, its diffusion, the familiarity on the side of employers and workers, its use and notably its precarious continuity may indicate that the instrument clearly has not been used to its full potential.

3.4.3 The occupational safety and health service

Within the Dutch context, one of the key players in the field of OSH is the OSH service. Even if the legislation clearly states that the employer should enlist the services of the *arbodienst*, the certification scheme, which is meant to legally guarantee the quality and independence of the OSH service, clearly specifies that the 'client' of the OSH service is both the employer *and* the works council. This double notion of 'client' was introduced in 2005, as a reaction to repeated signals that indicated that the OSH service had, since its inception in 1994, not assumed an independent role in relation to the employer (see Popma et al., 2001). On the basis of the new certification scheme, the OSH service should also serve the interests of the works council.

In theory, then, worker representatives and OSH services could be considered 'natural allies': the works council can use the independent expertise of the OSH service to convince the employer of the need to take good care of OSH, whereas the OSH service may benefit from an active works council urging investment in safety and health. In practice, however, OSH services still do get blamed for their lack of independence (de Zwart et al., 2011; van den Boom et al., 2013) ⁽⁷⁷⁾ as well as their conspicuous absence at shop floor level.

The FNV, time and again, has voiced its concerns regarding the lack of independence of professional OSH services and their short-sighted focus on absenteeism. 'OSH doctors are really making a mess of their obligations', according to the key informant of the FNV. Works councils could bring this to the attention of the employer. However, the key informant of the FNV does not have high hopes in this respect, as 'Employers clearly see OSH as a cost item rather than a long-term investment'. In addition, he thinks that most works councils are not really equipped to be an equal partner to the OSH professional, because of the technicality of the subject matter.

(77) Most vehemently van den Boom et al. (2013), whose subtitle is 'a corrupt system'. More distanced: de Zwart et al. (2011).

Roughly the same picture can be derived from the case studies.

We don't have contact with the company doctor. I personally don't think much of company doctors. They are clearly in the service of the employer.

Works council member at Barrel

The company doctor? I don't even know who it is. I think the current one is the fifth in 12 years, including because of take-overs. You don't get to build a common history. Also, the company doctor and the OSH service don't hand us the results of medical examinations or sound measurements, or they use incommensurable standards.

Works council member at RollingPress

Yes, I do have contact with the OSH service. I ask them for reports, and what risks they see in our company. But they don't really respond. I have the idea that they are not really capable of interpreting where the causes of illness lie.

Works council member at Glasswool

On the other hand, there were some cases in which the works council was more appreciative of the OSH service.

As a works council we've always done our best to keep our own company doctor. We have a very good relationship. He is not kept on a leash by the company and can take an independent position.

Works council of Hubbers

Previously, we had this great OSH officer for all printing companies. That man was really doing a great job. He gave us information and tips. The company cut back on expenses, due to austerity. They were only talking about money at that time. We understood, but I hope that the old situation will be restored. If someone like that fits well with the people, (s)he can really be someone we can confide in. As worker representatives we were also closely involved in the man's work. We're now going to broach this with the central works council. It would be very good if we can reach an agreement with the big boss.

Works council member at RollingPress

However, even though there were some other examples of proper cooperation in our case studies, it is clear that the possible contribution to prevention has not been used to its full potential. This is mainly because of the decrease in spending over the last few years (CBS Statline).

Ten years ago, everybody who was working here was medically examined on a regular basis. We had a good relation with our former OSH service. We had a clear contract, and the tariff was based on 'medical examination for each and every one'. Now we have a commercial OSH service, and the contracts have been readjusted. The examinations got more expensive, and we have been paying more attention to whether or not it is a legal obligation.

Manager at Audire

It is quite clear that the focus has changed from primary prevention to fighting absenteeism, notably in the smaller companies. In addition, there is a shift from a collective approach, focusing on the working conditions, to a more individual-centred, behaviour-based approach focusing on healthy living (BRAVO, for example) ⁽⁷⁸⁾ rather than on OSH.

(78) BRAVO is the Dutch acronym for Bewegen, Roken, Alcohol, Voeding en Ontspanning (exercise, smoking, alcohol, food and relaxation). See also <https://www.loketgezondleven.nl/gezond-werk>

3.5 Size, sector and occupational safety and health management systems

Two of the factors that are known to have an effect on effective worker representation are size and sector.

3.5.1 Size

The factor of size is of particular interest, given that the OSH effect of worker participation is strongest in small companies. In small companies where there is some sort of worker participation, OSH conditions are clearly better than in those that do not have a participatory approach (Popma, 2009a) ⁽⁷⁹⁾. Nevertheless, 94 % of small companies do not have any formal worker representation (Inspectie SZW, 2015a, p. 39). One of the most striking aspects of size as a characteristic is that OSHM is considerably worse in small companies (only 20 % of all companies with fewer than 10 employees comply with the four core elements of the WCA, as opposed to 80 % of all companies with over 50 employees (Inspectie SZW 2015a, p. 43)) ⁽⁸⁰⁾. Therefore, there is a clear size effect on OSHM as well as on worker representation.

Some of the reasons for this size effect may be quite obvious, but are, nevertheless, important to note. Evidently, in smaller companies, the odds of finding motivated, well-trained and experienced worker representatives are directly correlated to the number of workers. This, in itself, limits the chance of effective worker representation in smaller companies. In addition, the legal powers of worker representatives in smaller companies are much more restricted than of those in companies with a works council or even with an elected employee representative body. Furthermore, worker representatives are less likely to take a really activist stance in small companies because of the vulnerability of the presumably tighter labour relation with the employer, which may place the worker in a position of vulnerability.

Even if our cases did not show examples of this vulnerability, the general impression was that the worker representatives in the larger companies were much more effective than in the smaller companies. In the larger companies, more elaborate forms of OSHM were in place; the works councils' members in the larger companies also appeared to be more knowledgeable about the uses of participation. In addition, even though we found few examples of the use of formal powers, we did gain the impression (see section 3.2) that the mere existence of a clear legal context was helpful in the works council's playing an effective role. This is in line with a previous study, which concluded that the concept of 'enforced self-regulation', based on effective worker representation, is mainly a model for large companies (Popma, 2003). Small companies may find other forms of worker representation to be more effective, such as the so-called 'regional safety representatives' in Sweden, Spain and Italy (Frick and Walters, 1998; Walters, 1998; Menéndez et al., 2008). This was also suggested by the key informant from the trade union.

It is clear to me that worker participation in OSH is a 'big company approach', mainly because formal worker representation is virtually lacking in SMEs. However, roving safety reps could substitute for worker participation in smaller companies. These trade unionists could play a role in addressing OSH issues during visits to and inspection rounds in companies, and maybe suggest preventive measures. It's important, however, that these 'roving reps' should not fix the OSH problems themselves: they may address them, maybe even write a report, but it is then up to the employer and the workers to pick up responsibility.

One of the advantages of the roving representative model is that these representatives may build broad knowledge of a specific sector. Perhaps more important still, these roving representatives work independently and protected from the employer. Even if there have been some experiments with safety representatives in small companies in the Netherlands (notably so-called 'OSH promoters' in the

(79) This correlation may be attributed to a common background factor (that is to say, the employer's commitment to decent work). However, it is quite clear that in small companies worker participation is also important to improve safety and health.

(80) Two-thirds of the smallest companies do not have a plan of action to improve OSH, as opposed to 1 out of 10 in companies with over 50 employees (Inspectie SZW, 2015, p. 143).

woodworkers industry), these experiments were sparse and short-lived⁽⁸¹⁾. In most small Dutch companies (60 %), then, there is no form of worker representation as was envisioned in Article 7(1) of the Framework Directive⁽⁸²⁾.

3.5.2 Sector characteristics

Even more important in shaping OSH practices may be sector characteristics. It was quite evident from our case studies that the nature of the risks in specific sectors, notably safety risks (Barrel, Vigirail, Shipeneer) or risks from working with chemicals (Moon Chemicals, Glasswool, Dutch Delhi, NoFer), was a deciding factor in the type of OSHMS that the company implemented. Greater risks encourage the investment in some sort of standardised approach to OSH as well as in worker participation in OSH, given that most of the standards for OSHM contain reference to worker participation.

Table 18: Type of Occupational Safety and Health Management System in a selection of interviewed establishments'

Company	Type of OSHM
Barrel	EMEA, VCA (all relevant employees)
Dutch Delhi	OHSAS 18001, VCA, ISO-TS, ISO 9001, 5S
Flour & Powder	Operating under Control of Major Accident Hazards Regulations, notably <i>ATEX Directive</i> (99/92/EC)
Glasswool	ISO 9001, ISO 14001, ISO 45000 (future), VCA (all relevant employees)
Hubbers	OHSAS, ISO 19001 and 14001
Moon Chemicals	Operating under Control of Major Accident Hazard Regulations, notably <i>Seveso Directive</i> (2012/18/EU), implemented in Dutch legislation through BRZO 2015, also 5S
NoFer	Operating under Control of Major Accident Hazard Regulations, notably <i>Seveso Directive</i> (2012/18/EU), BRZO 2015
RollingPress	ISO 9001, OHSAS 18001
Shipeneer	VCA**, ISO 14001 (future)
Vigirail	VCA*

Nevertheless, as was clearly indicated by Frick (2011), the introduction of OSHMS systems does not in itself lead to some sort of formal worker representation. We found the same in our case studies, such as in the cases of Moon Chemicals and Shipeneer. Even if worker participation was deeply engrained in daily safety routines at an operational level, Moon Chemicals had no form of formal representation, whereas at Shipeneer the works council had actually been bypassed in OSH matters, as these had already been taken care of by the VCA** procedures.

(81) These OSH promoters were former workers in the industry who had become incapacitated for work as a result of having done heavy work in the past and who therefore could be considered real role models for their younger colleagues. The project was terminated because the function of OSH promoter was deemed redundant in the light of the employers' obligation to appoint a prevention worker (Article 13 of the WCA).

(82) '[T]he employer shall designate one or more workers to carry out activities related to the protection and prevention of occupational risks for the undertaking and/or establishment.'

We have a VCA system, we have an ISO system, we have our mother company that watches our steps three times over before we can get to work. So, as to safety concerns, the works council has limited added value.

OSH manager at Shipeneer

In these cases, worker participation may only be a limited means of enhancing safety, or limited to one-way communication on safety rules. Worker participation, then, is limited to the operational level — which, of course, may be very valuable in enhancing safety and health at shop floor level. Nevertheless, responsibility appears to be no longer shared, but, instead, delegated to professionals. As has been stated before, OSH is increasingly becoming an expert domain.

This was also the main message of the key informant from the trade union — in relation not only to OSHMSs specifically, but also to current OSHM as supported by the WCA.

Many works councils are encapsulated in the current 'systems approach'. In many cases, specifically in larger companies, works councils define their main role to be consultation with the board instead of standing up for the interests of workers on the shop floor level.

The systems have taken away responsibility from the workers, it seems. When there is some mention of joint responsibility, the workers' role is limited to 'responsible behaviour'.

We have a project group Performance Behaviour. We are much more communicative towards curative measures. But it's mainly focused on safety.

OSH manager at Dutch Delhi

This last 'confession', that OSHM is mainly focused on safety, is echoed in other cases too: in the case study companies, safety was the main driver to set up some sort of OSHMS.

In some cases, safety and health management was also a spillover effect from other forms of safety.

One of the external standards our company has to deal with is BRC (British Retail Consortium)/HACCP (Hazard Analysis and Critical Control Points). That's about food safety actually, not about occupational health and safety. But there is some overlap. The few flex-workers we employ receive basic training the first day they arrive, and after that they always work with a buddy. We also work with a checklist, where we check how the flex-workers are performing. That's also related to safety issues.

OSH manager at Flour & Powder

In some cases this spillover may also be beneficial to the health of workers instead of just being a safety asset.

There are child safety protocols drafted by the Public Health Authority we have to adhere to. For instance as regards hygiene or protocols to send sick children back home, in order to prevent contagion with infectious diseases. These protocols are communicated regularly to the employees, and if need be I will point out to them that they have to live up to the protocol. The protocols mainly address child safety, but in part they are also relevant for the issue of occupational health and safety.

Manager at Villekula

In hospitals, you have to stick to protocols concerning patient safety. In some cases, notably heavy lifting, this is also beneficial to the health of employees.

OSH manager at Hospital

However, these spillovers have little to do with worker participation, let alone with formal worker representation. The general impression was that, even if systematised safety and health management does contribute to better OSH, the effect on worker participation was mainly noticeable in the operational

field, namely through the instruction of workers (which is not actually ‘participation’ but instead one-way communication) ⁽⁸³⁾.

Nevertheless, in several of the case studies we also encountered two-directional communication in the field of systematised reporting of incidents, near misses and so on (see section 2.2.4). Therefore, even if participation may, in many cases, be restricted to direct contact with workers at shop floor level, and even if one may be critical about the profundity of formal worker representation under OSHMSs, it is clear that systematic safety and health management is helpful not only in achieving better safety and health outcomes but also in involving workers.

We don't have an 'employee representative body' [personeelsvertegenwoordiging] in the sense of the Works Councils Act. But our company is certified under HKZ, the Harmonisation model 'Quality of Cure', and the certificate demands that there is someone to act as the mouthpiece of the workers. To be honest, we had to pick out such a person ourselves.

Manager at Shelter Lodge

In some cases, the protocols also empower individual workers.

*Working on location is, also with an eye on safety, highly protocolled — also as a result of VCA**. One of the elements of protocol is that workers, when they notice a dangerous situation, may interrupt their work — obviously with a notification to management and those that are directly involved on the spot.*

OSH manager at Shipeneer

Therefore, the bottom line is that OSH systems do pay off.

When we introduced the VCA system, in the 1990s, I was really critical as regards the level of VCA Basic courses. But on hindsight I say: VCA has really put safety on the agenda and has given voice to the workers. Within our company, it really did stir up things.

Manager at Audire

3.6 Business context: role of parent company, position in production chain

Companies operate not in a vacuum but in specific contexts: both a legal context and a business context. The former has been addressed earlier; the latter will be discussed in this section. Many factors may affect OSH, but we will focus on two that stood out in the case studies, namely the position within the company and the demands of shareholders.

3.6.1 Role of parent company

Clearly, the position within the enterprise may work differently according to the focus of the parent company. If the parent is focused on short-term profit, this may affect investment in safety and health. On the other hand, the parent may adhere to stricter standards. In our case studies we found no examples of an enterprise that was being pressured by its parent company not to invest much in OSH; in fact, quite the contrary.

Four years ago, we were taken over by the current owner. You can tell by the fact that safety is now a top priority as well as the first item on the agenda in every meeting with the works council. This is because of the emphasis on liability by the American ownership. Under the former Dutch management safety was important too, but we were not discussing it continuously. Now a safety manager of the head office comes over every month, and there's permanent monitoring and registration of (near) incidents.

(83) Communication, such as training and information, is lacking in one-quarter of all companies (Inspectie SZW, 2015a, p. 41); therefore, even if systematic OSH management contributes only to one-way communication this may be welcomed anyway.

OSH manager at Flour & Powder

One of the other cases was Shipeneer, which was taken over by a Scandinavian company in 2015. The new mother company, with 18,000 employees worldwide, has a very sound reputation in the field of occupational and general safety and health. Even though Shipeneer also had a good track record in OSH, the role of the parent company was welcomed, as it provided Shipeneer with an even better-structured approach to OSHM, training in OSH and information exchange among the daughter companies.

Just the other day, our staff all were involved in a safety day organised by the Scandinavian mother. We also addressed incidents and what could be learned from them. Also, they supplied us with an app that helps reporting (near) accidents to superiors.

OSH manager at Shipeneer

Being part of an international firm may have an effect on worker participation, however.

Recently we've been taken over by a new Indian owner. I think the impact on safety is not too big, as they too give priority to safety. But the style of management is quite different.

Works council member at Dutch Delhi

Nevertheless, this does not mean that all existing systems will be overhauled.

The concern does not call all the shots, no. A lot is coming from head office, but in the field of occupational health and safety we're used to minding our own business. I do not think that things will change dramatically now that they are striving for international standardisation in all 12 hubs. Actually, we're in the lead, and I don't think that they will find many lacunae. Maybe there are stricter standards in Scandinavia, but there will not be any downward adaptations.

Works council member at Hubbers

The case studies teach us that safety and health is organised better when all parties in the production chain or conglomerate uphold more or less the same high standards. In addition, we gained the impression that, in regard to safety and health management, it is better to be part of a larger company with adequate expertise and resources to dedicate to safety and health and with well-structured management of OSH.

This is not to say that a strong focus on safety and health in itself also entails a participatory approach. This may be dependent on the labour relations within the entire company, as well as on national practices in various countries within the same international company. Nevertheless, even though we encountered no examples in which the embeddedness of a company within a larger concern really influenced labour relations, we think it is safe to say that the legal system of worker representation in the Netherlands is a safeguard against erosion of worker participation in safety and health when a company is taken over by a foreign company.

3.6.2 Demands of shareholders

Another, more exogenous factor in the business context may be the business' relation with the client and the demands of shareholders. Once again, Shipeneer may serve as an example, mainly because the company works in an environment where safety is an important issue.

We have been certified on VCA for a long time now. We started VCA because major clients demanded that we work safely. But on the other hand, when we analyse incidents, one of the main reasons that is invoked for the incident to have happened is the client is always in a hurry, speeding up our work.

OSH manager at Shipeneer

Haste, time restraints, cost-cutting and increased competition among businesses are factors that may lead to a slackening of the focus on OSH. However, this in itself should not be expected to have a direct impact on worker representation in this field. On the other hand, as was stated earlier, time constraints and work pressure are among the main factors with a negative impact on worker representation (section

3.2). Fiercer competition may result in an increased intensification of work, which nibbles away at the resources for effective worker representation.

In general, a turbulent business environment is not very helpful in helping worker representatives to focus their attention on safety and health, as can be inferred from the fact that OSH is often pushed aside by more pressing matters.

There have been a lot of changes in management over the last few years. Managers have come and gone, and they only did the bare minimum. Health and safety were really on the backburner.

Works council member at Chrisanity

Absenteeism has gone up for the last few years. That's because of the turbulence we are experiencing. Two years ago, bankruptcy was looming. There has been a restructuring, where nearly 100 employees were declared redundant. The financial situation has stabilised by now, but it remains restless. We witness change upon change, it just does not stop. The financial worries are not over either. Under these circumstances, occupational health and safety is not really a priority for the works council, nor in the teams.

Works council member at Chrisanity

Currently OSH is not really high on the agenda, because the ongoing merger is now taking all our time and energy. We also had difficulty finding works council members, due to the merger. And some of the members are considering to quit, because management is reluctant to allot us more time. That's not a matter of obstruction, but rather of lacking financial resources. Money's still tight.

Works council member at Crossroads

In summary, then, it is clear that worker representation in OSH is best able to flourish under stable conditions, with adequate resources and ample time to get the job done. Unfortunately, as was evidenced in a number of cases, turbulence in the business context has, in some respect, become the natural order of things in the works council's practice.

3.7 Time of workers' involvement

It is common knowledge among works council trainers ⁽⁸⁴⁾ that, to be effective as a works council, early involvement is key. This was also established in Dutch research on the functioning of works councils (van het Kaar et al., 1999). The idea of early involvement derives from what is sometimes called the 'funnel of decision making', which implies that there is more room to discuss various options with more input from the knowledge of workers at an early stage (rather than at subsequent stages). In addition, it is a means of identifying probable conflicts of interest between employer and employees at an early stage, with more time to settle these conflicts in a productive way. In fact, early involvement is at the core of the Dutch poldermodel (see section 1.1.4) and constructive working relations were identified as the most important factor in effective worker participation by the key informants from the labour inspectorate.

In our case studies, too, we witnessed various examples of both the employer and the works council being quite positive about the effects of early involvement.

A strong point is the proactive approach to codetermination. On most accounts, the works council is involved in the early stages of the decision-making process — well before the formal procedures. Clearly the formal processes remain, but early involvement will ward off most of the objections. Then the decision process runs much smoother, also in the formal procedure. In my former job the works council sometimes did stick to its formal position, which was a pity.

OSH manager at Twin City

(84) One of the researchers has been a works council trainer himself, and the other researcher has over 25 years of journalistic experience in the field of works council training.

I do not support submitting plans to the worker representatives only at a late stage, when these are all worked out. I already do it at the stage when the plan is just an idea.

OSH manager at NoFer

The relation with our works council is without problems, and deliberations run very smoothly. It is a good works council, in the sense that it is rather critical in its approach. That's how works councils should function. It is our aim to involve the works council at an early stage, both formally and informally, and also when the works council does not have a formal right of advice.

Manager at Hubbers

Early involvement may also be a tool to prepare the works council in due time for its role.

We had an issue in the field of alcohol and drugs policy. It was a good thing that we were involved at an early stage. We as worker representatives did not have knowledge of the medical aspects of relevance to the plan. We also wanted to have things in writing. People who are using substances may have other problems as well. They need to be supported, you can't just send them home. We wanted a clear arrangement on how this would be dealt with. And our wishes were properly addressed in the final plan.

Works council member at NoFer.

In some cases, the works council's OSH committee had a clear role in preparing the formal procedures.

In principle, consultation on OSH matters is in the first instance handled between the OSH manager and the OSH committee. Formal plans are then submitted to the works council via the director, and discussed in the formal meeting between the director and the works council.

Works council member at MentaWorks

This two-tier approach could also serve as a safeguard against the previously mentioned divide between the hands-on approach that is sometimes typical of OSH committees and the more strategic issues that may be hidden under OSH issues (see section 3.3).

To sum up, early involvement of works councils in decision-making is deemed to increase effectiveness of worker representation and there is reason to believe that this also applies to worker participation in OSH.

3.8 Summary: main drivers for and barriers to effective worker participation in occupational safety and health

One of the goals of the present research was to identify key factors for effective worker representation in the field of OSH. In the above sections, we have tried to make a case that the main drivers in OSH participation are those detailed in sections 3.8.1-3.8.6. Some of these clearly show that OSH is more than a technical issue; in fact, OSH is a labour relations issue.

3.8.1 Cooperative labour relations

As was identified in previous studies, indicated in our case studies and confirmed in some of the key informant interviews, cooperative labour relations are an essential condition of effective worker participation. If the employer (or the employer's OSH staff) is not open to worker representation in safety and health, it will not be able to reap the benefits of participation, which have been identified time and again: namely, knowledge of shop floor practice, the experience of workers, support for OSH measures and more effective implementation. Evidently, worker representation — preferably at an early stage — may in some cases lead to disagreement and conflicts of interests, but these conflicts will also arise in companies where the workers are bypassed initially.

Cooperative labour relations depend mainly on the commitment of the employer, which is key in achieving effective worker participation in OSH. If the employer is not committed to participation or, even more so, formal representation, it was found in some of our cases that the existence of clear-cut

legislation underpinning the position of the works council may prove useful. Nevertheless, we understand that even clear-cut legal powers may run counter to day-to-day power relations if the employer is really unwilling to cooperate. In that case, clear information on the benefits of worker participation might be more helpful than forcing compliance (which, in the field of worker representation, is even more difficult to achieve than in the field of OSH legislation).

3.8.2 Knowledge

A second main factor is good knowledge on the side of worker representatives (or, for that matter, individual workers), adequate time for their activities and a clear vision on the role they want to play and the goals they wish to achieve. In other words, effective worker participation is best achieved by training and a professional approach by the worker representatives. Unfortunately, since the changes in the funding of works council training (and maybe also because of austerity measures in companies), things appear to be heading in the opposite direction. Another hindrance is the rise of the number of flexible workers; they do not actively participate in worker representation in general and there is no reason to assume that the situation is different in the field of OSH.

Flexibility has brought about a clear divide among insiders and outsiders. Employers do, in most cases, take care about the employees they may have known for years. But the flex-worker is disposable. Also, these flex-workers are not in a position to fight for their rights.

Key informant from trade union

3.8.3 Trust

In addition to adequate training and time off, one of the main attributes of effective worker participation is trust. This can be institutionalised by means of legal protection of workers against backlashes as a result of their activities in worker participation — notably dismissal. In the Netherlands this can be implemented on the basis of Article 21 of the WOR. However, more importantly, trust is an epiphenomenon of a culture in which workers are encouraged to speak out, sometimes in a critical way, but in the interest both of workers' safety and health and of the company. Our case studies gave some fine examples of how workers were encouraged to actively contribute to discourse on workplace practices in OSH.

3.8.4 Link between discourses and practices

Another driver for effective worker participation is the understanding that worker representatives should establish a link between the discourse and consultation on OSH in meeting rooms and actual working conditions at shop floor level, in both directions. Even if the works council may set up a special committee on OSH, this is not to say that the members of the committee should limit themselves to day-to-day activities at shop floor level. Some of the case studies, as well as interviews, indicated that the OSH committee is not always tuned in to the more strategic issues. On the other hand, some works council trainers, as well as other professionals in the field, complain that the works council is too often confined to the four walls of the board room, without being in proper contact with its constituency. Striking a balance between the board room and the shop floor may be an important driver to effective worker participation in OSH.

3.8.5 Clear legislation and firm enforcement

Yet another driver for worker participation in OSH is clear legislation, not only concerning worker representation (in the Netherlands this is based on the WOR), but also concerning the field of safety and health. In addition, a firm role for the labour inspectorate could help worker representatives in cases where there is discord between the employer and the workers, or in the case of differing interpretations of the relevant legislation. On the basis of our research, it may be concluded that currently the natural allies (works council and labour inspector) are too far apart. The distanced position of the labour inspectorate is attributable not only to understaffing, but also to a change in enforcement policy after the introduction of the OSH services in the Netherlands, after which the labour inspectorate no longer play the role of 'advisor' at company level but must stick to its 'policing' role.

3.8.6 The rise of occupational safety and health management

Finally, it was found not only that the rise of OSHMSs may improve safety and health at workplace level but that it also appears to contribute to worker participation in OSH policy. On the other hand, it was mentioned that professionalising safety and health management could imply that the responsibility is shifted to the OSH expert, thereby setting worker representation at a distance.

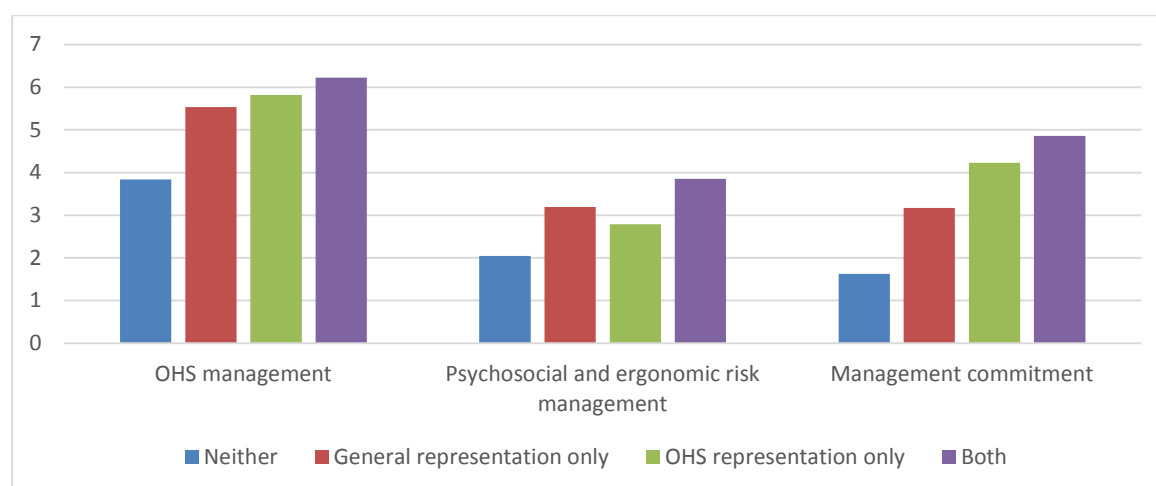
Having said this, it is clear that some of the potential drivers could easily turn into obstacles. Systematising OSHM may prove detrimental to the involvement of workers. The presence of OSH committees could lead to better knowledge among worker representatives and a clear focus on OSH, but also to a narrow interpretation of OSH as a technical domain that is separated from other domains relevant to worker representation. Here, the balance should and can be struck by means of a clear vision on the role of worker participation in safety and health management, which should not be merely instrumental.

Some of the other drawbacks are more difficult to counter: increased pressure from competition, mergers and takeovers, the rampant use of flexible work, obfuscated responsibilities in increasingly complex conglomerates of organisations. These developments all hinder effective worker representation, but are difficult to counteract.

4 Final reflections and critical assessment

In the above, we have first tried to establish whether or not worker representation in OSH contributes to better safety and health outcomes in the Netherlands. The findings gave the overall picture that it does, as has been established in previous studies as well. This conclusion was mainly based on pre-existing empirical data, enriched with findings from the 21 case studies. Various studies have indicated that worker involvement in OSH policy leads to better safety and health practices in enterprises; this is also the case in the Netherlands (Popma, 2003, 2009a; Smulders and Pot, 2016, p. 125). This positive effect is shown in the ESENER-2 report too (EU-OSHA, 2016, pp. 75-79), with roughly the same findings in the Netherlands: the presence of worker representation is positively associated with better OSHM (see Figure 11). However, one first critical remark has to be made here: the definition of 'OSH representation only' is a form of worker representation that is quite uncommon in the Netherlands (see also section 3.2).

Figure 11: Mean OSHM, psychosocial and ergonomic risk management, and management commitment scores among Dutch enterprises by worker representation arrangement type (ESENER-2)



The second step in the research consisted of a more in-depth analysis of *how* worker representation (or more generally worker participation) contributes to better safety and health at shop floor level. The findings were described in section 2.3 and in Chapter 3. We identified various key factors for effective worker representation, where 'constructive labour relations' was identified as ranking in first place. In the case studies, we gained the overall impression that, in fact, worker representation on safety and health was rather harmonious. However, clearly, this might be a biased finding, as the companies that were willing to participate in the study were probably more positive in their attitude towards worker representation than those that were unwilling (let alone the companies that refused to take part in the ESENER-2 survey in the first place).

Nevertheless, other studies painted a favourable picture of the Netherlands as well: when asked during a survey conducted by the Dutch labour inspectorate, 84 % of the worker representatives indicated that cooperation with the employer in the field of OSH was 'good' and 11 % labelled it 'adequate' (Inspectie SZW, 2015a, pp. 39-40). Only 1 % of the worker representatives thought that cooperation was 'poor' or 'bad'. In addition, although some works councils in the cases did take a critical approach in their cooperation with the employer or his OSH manager, this approach has been labelled 'critical yet constructive'. Some of the managers in our case studies actually encouraged a critical approach as a crucial element in effective learning and mature labour relations. This culture of 'trust and participation' (Holland, 2012) and of open deliberation is quite widespread in the Netherlands (Knegt, Mevissen et al 2001). Furthermore, it was found that an 'activist' approach towards safety and health is quite rare (Popma, 2003, p. 217).

These findings could be considered proof of the effectiveness of the Dutch poldermodel approach. Nevertheless, this merits a critical remark. Even if in most cases the constructive approach may appear

to be most effective, and in many cases employer and workers agree that safety and health is good for both workers and business, it is quite clear that safety and health conditions in many companies in the Netherlands are still, to put it mildly, open to improvement. One out of five Dutch workers state that their health is at risk from working conditions (Parent-Thirion, 2012, p. 61); also, the occupational burden of disease is still high, with over 3,000 premature deaths related to working conditions (Popma, 2005; van der Laan, 2010) and some 50,000 cases of occupational disease annually.

It is established that worker representation may help to improve safety and health when relations are harmonious. However, in most cases where employer and worker representatives do not agree on the need to improve working conditions, many worker representatives subscribe to what the key informant from the trade union calls ‘a culture of docility’⁽⁸⁵⁾. Previous research (Popma, 2003) found that a more activist approach by works councils leads to more effective worker participation. Therefore, in some cases the ‘polder model’ culture may have to be supplemented with a more hands-on approach.

Another critical remark should be made: even though the findings from both the ESENER-2 survey and the 21 case studies are quite positive for those companies where worker representation is in place, it should be stressed that, according to a survey conducted by the labour inspectorate, 47 % of the employers do *not* consult their workers at all in OSH matters (Inspectie SZW, 2015a, p. 39). This has been deduced on the basis of self-report by the employer, so it is quite likely that even this percentage may be a bit on the sunny side. However, even if the findings of the labour inspectorate are a bit more positive, in comparison with the ESENER-2 survey it can be surmised that ESENER is even more so (Inspectie SZW, 2015a, pp. 17-20)⁽⁸⁶⁾. The ESENER-2 report (and our case studies) clearly paints too rosy a picture, most likely because it is based on self-report and also because of a probable bias in the response (those companies that are not interested in OSH are less likely to cooperate in the survey), whereas the findings collected by the labour inspectorate have a non-response of 0 %.

In addition, it was evident from the case studies (and also from the researchers’ current knowledge) that, in the later stages of the risk management cycle, worker participation appears not to go beyond signalling shortcomings in day-to-day practices at shop floor level (see section 2.2.4). To be sure, this in itself is very useful — maybe even the most useful contribution to risk management — but assessing risks and planning measures may prove useless if not put into action. However, this does restrict worker participation to operational level, being the ‘eyes and ears’ of the OSH specialists. The more fundamental steps in OSHM, actually learning from incidents on the basis of a methodologically sound analysis looking for basic risk factors (BRFs) (for example, Tripod analysis), are beyond the realm of worker participation, even though workers may be most knowledgeable of the existence of these BRFs. The even more fundamental step of ‘double-loop learning’ (Argyris, 1999; Budworth and Al Hashemi, 2015) was clearly beyond the horizon of the participants in the case study research.

Therefore, the potential of worker participation may not be used to the full, either from a quantitative or from a qualitative point of view, because:

- most Dutch companies do not have formal worker representation;
- if they do have worker representation, the representatives are on many occasions bypassed by the employer;
- in many cases, worker participation appears to be restricted to operational issues; and
- worker participation appears to be limited to the first stages of the OSH risk management cycle only.

However, on the other hand, the findings from the present research do underline that effective worker participation is not only useful and sorely needed, but also feasible. Even if our cases may be select, too rosy even, the research indicates that, if companies are open to worker participation and supply the worker representatives with adequate resources to fulfil their role, employer and workers alike may reap the benefits.

(85) This was also found in Knekt, Mevissen et al (2001), where in 90 % of all cases the employer and the worker were in concord on working times arrangements, but in the case of conflicting interests it was the employer who held the upper hand.

(86) The first findings of ESENER-2, for example, indicate that nearly three-quarters of all Dutch companies conduct a risk assessment on a regular basis (ESENER-2, First findings, p. 3), whereas in the Dutch survey the number of companies that can show a risk assessment on request of the labour inspectorate does not even reach 50 %. In the majority of cases, the risk assessment is not conducted ‘on a regular basis’: more than half of the risk assessments are more than three years old.

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Annex I Short description of cases

In the study, the research team visited 21 companies. In nearly all companies the team spoke with both management and employee representatives. In the cases where there was no formal representation, we spoke with at least one employee (among others, Moon Electronics, Vigirail and Villekula).

The main characteristics of the companies can be seen in the following table. Following the table, the main characteristics of the 21 individual cases will be briefly described. Note that, to protect confidentiality, the names of the companies are pseudonyms.

Size	Production industries	Private services	Public services
10-49	Flour & Powder*	Audire	Grammar School
	Screelec	Vigirail	Villekula Kindergarten
	Moon Chemicals	Country Cooperative	Shelter Lodge
50-249	RollingPress	Shipeneer	Crossroads
	Glasswool	Barrel	Chrisanity*
250+	Dutch Delhi	MentaWorks	Hopital
	NoFer	Hubbers	Twin Cities

*Represented at group-level works council.

- All of the establishments of 50+ employees where we spoke with management and employee representatives had fully fledged works councils (namely Dutch Delhi, Hopital, Glasswool, RollingPress, Twin City, NoFer, Audire, Barrel, Hubbers, Crossroads). Some of these establishments function within larger groups of companies with central works councils. The smaller company Audire had set up a works council too, even though the legal threshold of 50 employees was not met.
- Two companies had no works council at their own establishment level, but were represented in a works council at a higher level within a group of enterprises (Flour & Powder, Chrisanity).
- One establishment (Screelec) was too small to have a works council, but had an employee representative body instead, with legal status but fewer statutory powers (see section 1.1.2 for more information on employee representative bodies).
- Grammar School is a special case, as it falls under specific legislation for the public education sector. The management meets with employee representatives and representatives of parents. Because of its size, informal dialogue has more weight in Grammar School than formal representation does, not unlike the situation in Screelec. A difference is that the management representative in Grammar School is not independent but answers to the higher management (a foundation comprising various educational organisations).
- Establishments with no statutory representative body at all are Country Cooperative, Moon Chemicals, Shelter Lodge, Vigirail and Villekula. Informal relations prevail. Nonetheless, they have taken their own measures to ensure that social dialogue takes place on a more or less structural basis. In one case (Shelter Lodge) we could not corroborate to what extent this is a living reality. The interview with the employee representative was terminated before we could get to that. What we can say, however, is that the employment representative was appointed by management, instead of elected, to comply with demands of external authorities in the care sector.

Below, we shall present the anonymised cases.

Industry, small

1 *Flour & Powder*

Flour & Powder (F&P) is a small firm, with two sister companies and one headquarters in the Netherlands. For four years, this group has been owned by an American multinational, which produces a variety of ingredient mixes for artisanal and industrial bakers. As a result of the new American ownership, the issue of safety has risen up the management agenda. Safety is closely monitored by a specially assigned official from Dutch headquarters who operates under guidelines from US headquarters. Troublesome working conditions are repetitive lifting and inhaling non-toxic powders. Some investment has gone into improvements, but some of the desirable measures are, purportedly, technically impossible in the present accommodation.

The Dutch group as a whole has one works council, of which we spoke to the local delegate. The management representative is not the CEO who meets with this works council. His autonomy is limited to expenditures of EUR 5,000, on the condition that he meets targets. In his own establishment, he has a programme to maintain good relations with his own workers. A remarkable characteristic of F&P is the fact that it has almost no workers over a certain age (most are in their thirties or forties). When we said, in our interview with the employee representative, that this might lead to an underestimation of the long-term consequences of repetitive lifting, he reacted in a somewhat surprised but also affirmative way. At our request, he calculated the amount of weight that goes through the hands of some workers on a daily basis. His result was 10,000 kilograms per day. This seemed to be an eye-opener to him.

2 *Screelec*

Screelec is the scene of a culture clash. Its specialty is screen printing for other small firms. These firms are in the electronics industry and need their products to carry graphics (symbols and texts). The work involves not only screen printing but also laser cutting, moulding and assemblage. Four years ago, the calm was disrupted by the arrival of a new owner, a Dutch electro-technician who spent most of his management career in the United States. To him, a 70-hour workweek is relaxing compared with that period. He envisages a new future for Screelec (working for the big companies, on a whole new technical level) and has put his own assets on the line for this.

The employee representative told us that many hazardous situations were improved promptly when management moved the firm to a new facility where the whole layout was redesigned from scratch. The management representative invited all employees to participate in this process and bring in their own points of view (after the interview, the management representative gave us a tour and proudly showed many examples). Nevertheless, the new owner alienated many people with his confronting style. The employee representative, however, gives him credit for the fact that he recognised the signs of an upcoming revolt and sought the help of a professional coach to adjust his management style. However, the employee representative still feels that things could be improved; one of the complaints is that the management representative cannot cope well with sick leave.

The employee representative is member of an employee representative body, a body with legal status but with fewer legal possibilities than a works council. This particular employee representative body has a history of no more than 1.5 years, is undermanned and has received no training ('I did not know that such training exists').

3 *Moon Chemicals*

Moon Chemicals is a producer of printing inks and pigments for professional printing facilities. It is the daughter company of an international corporation. Because of its small size, it does not have a formal worker representative body as envisaged in the WOR.

The main risk is working with dangerous substances (notably toluene, but also nitrogen for expelling oxygen to reduce the risk of explosions). These risks fall under the scope of the Seveso Directive, which implies that the company is legally obliged to have a comprehensive safety organisation. This also entails very frequent consultation with workers as part of the system to identify risks and analyse accidents. There are daily safety briefings as well as monthly safety training of personnel. Both the management representative (in fact, the OSH manager) and the employee were under the impression

that this form of worker participation was an ample alternative to formal representation. However, it was clear to the researcher that 'participation' was limited to the operational level, whereas participation at the level of company policy was lacking.

One of the specific issues was that involvement of workers (in this case in the field of operational safety management) requires a 'no blame' culture, to strengthen open expression of ideas.

Industry, middle

1 Glasswool

Glasswool is the Dutch subsidiary of a French concern in glass fibre and spun glass, which invests relatively heavily in safety and health, both financially and in terms of management attention. The management representative (chemical engineer and safety manager) keeps a close eye on safety incidents and on the safe behaviour of workers (200 employees, 31 temporary workers and 28 workers employed by subcontractors). The firm as a whole values social dialogue with employee representatives.

Although the management representative is not the CEO who is responsible for the dialogue with the works council, he knows what to think of the works council: too much focus on minor details and not enough on the big picture, namely the way things should be managed. He adds that some issues go over their heads.

The employee representative has been a works council member for over 25 years. He spontaneously adds that this is not a good thing. Unlike most Dutch companies, Glasswool seems to have a lively union culture. This is partly because Glasswool's Dutch branch has its own collective agreement: 'Workers here all want to have a say about their terms of contract.' The works council typically recruits its candidates from union membership groups and is 'fed' by them. This is, so the employee representative claims, representative of all departments and they communicate actively with the shop floor. The works council's main concern is not safety but health. Its priorities involve better climate control, dealing with complaints about new and more taxing shift schedules and complaints about the leadership style of some managers as well as the undesired effects of overtime benefits ('As a works council, we feel that some workers need to be protected from themselves').

2 RollingPress

The recent history of RollingPress has been something of a rollercoaster. It was part of a group of printing facilities of a Dutch press holding, which went into decline. Severe cutbacks were made, until RollingPress, as the sole survivor of its old group, found a new owner. Because it was the last printing facility of this group to have been modernised by its former owner (in 2007), it has state-of-the-art equipment, including with regard to SHE (Safety, Health and Environment). The new owner, a Belgian group, operates aggressively and is willing to invest heavily but is cutting costs at the same time. Job pressure is never absent in printing plants. In this case, the deteriorating situation under the former owner and the adjustments made by the new owner have contributed considerably to work pressure.

Both the management representative and the employee representative, who is the works council's president, have lived through all of this together. They have given each other credit for (among other things) their intention to make the company a healthier place to work in. Organic solvents have been banned, but implementing another important initiative had been unsuccessful until our arrival. For years, the biggest wish of the management representative had been to win the works council's support for a new and healthier shift system. The employee representative backed this idea, but until recently the works council had declined to give its approval (which is necessary under Dutch law) because of lack of support at shop floor level. In printing facilities of press companies, workers can have considerable power because of their specific and sometimes irreplaceable knowledge of the process; the employee representative is aware of this. He keeps in close contact with the shop floor. However, directly after his interview, the employee representative informed the management representative that the works council has, after all, agreed to a lengthy experiment with new time schedules, notably because the workers are getting older and because, from their experience, the current schedules are no longer sustainable.

Industry, large

1 Dutch Delhi

Dutch Delhi is active in the rubber industry. For some years now, this enterprise, with its traditional Dutch labour relations ('poldermodel'), has been owned by an Indian family firm. This was accompanied by a new, Anglo-Saxon management style: more emphasis on shareholder value, tighter planning and control. In regard to safety, this is seen as a positive change. However, pressure on workers has mounted and both the management representative and the employee representative deplore the introduction of much more bureaucracy. They are nostalgic about old times, when there was more commitment to each other's needs in all ranks and also between ranks.

The management representative is a relatively young (42 years old) human resources manager who sits in at meetings between management and the works council. He is convinced that many safety and health issues are the responsibility of workers themselves and is an active promoter of lifestyle programmes. However, he also acknowledges that pressure on workers is rising. He even predicts that this will lead to more burnouts within the next six months. The employee representative, a very experienced IT professional with intimate knowledge of all planning processes, has no objections to lifestyle programmes, but disagrees firmly with what he sees as a one-sided approach to the responsibility issue. He sees growing pressure on workers from top management. One source of stress is job uncertainty, due to the present building of a second European production facility in Hungary.

Like the works councils of Glasswool and RollingPress, the works council of Dutch Delhi is well connected to unions.

2 NoFer

NoFer is a non-ferrous metals factory, which processes metal ore and recycled metal products to make half-fabricates. Secondary products include several other metals and large quantities of sulfuric acid. The plant operates under Control of Major Accident Hazards Regulations.

Since 2007, the originally Dutch firm has been part of a global company that spans the whole production chain, from mining to end products. We heard no complaints about any new management styles that were introduced, Anglo-Saxon or otherwise, as was the case at Dutch Delhi.

Safety and health management systems are very detailed, to such a degree that the works council has asked for more manageable information about risk assessments and safety and health plans. The works council is organised along union membership lines (but fractions are not very active in giving themselves a high profile). There is a waiting list to become a candidate, which is quite uncommon in the Netherlands. Another remarkable characteristic is that the works council has a system to monitor the consequences of measures for specific groups of colleagues. Social dialogue between management and works council (and its committees) is more intense and frequent than in any other case in our sample.

The management representative is responsible for safety and health. He has had advanced technical and management training. The management representative sees much worth in reciprocal communication in early stages of the decision-making process, whether legally prescribed or not. The works council and its OSH committee value this, but this does not mean that they agree to management proposals very easily. In some cases, such as critical evaluation of plans for health checks and alcohol and drugs tests, they withheld approval and required renegotiation.

Services, small

1 Audire

Audire is the Dutch subsidiary of a foreign firm in the certification business (for example, ISO). It carries out inspections and audits, and issues certificates on management systems and safety. This means that its employees work on the premises of customers, without direct control over on-site circumstances. Some inspections involve radioactive material. This is one of the reasons why much of their work is carried out in evenings, at nights and at weekends, with peaks at irregular intervals. High time pressure

is typical. This is also because much of Audire's work is carried out when plants are temporarily closed (this is costly).

The management representative is an experienced HSE manager. His worries include job pressure and unhealthy lifestyle issues, not technical safety. The employee representative, a senior technician, has said the same, but added that he is also worried about the 'top down' leadership style (which he relates to the nationality of the present top manager). On top of that, he worries about a total lack of interest for the works council among young workers.

As the company is certified on the basis of the Dutch system VCA, which implies that contact between the management representative and workers is often direct through toolbox meetings and other safety-related meetings, there is a decreased need for formal consultation.

2 Vigirail

Vigirail is a company consisting of 18 employees, 12 of whom work on site most of the time. For Vigirail, safe working conditions are also 'core business'. The owner of the Dutch railway network, ProRail, outsources maintenance and repairs to a limited number of specialised constructors. These, in turn, are obliged to hire specialised firms such as Vigirail to monitor safe working conditions and to carry out inspections before tracks are approved for use again.

The management representative is the owner. For lack of elected employee representatives, we spoke to one of the most senior employees. He mostly works in the office (he makes the project safety plans to which the constructors have to conform), but also does on-site inspections.

The workers of Vigirail are often in a tight position in regard to safety and health. While being the eyes and ears of ProRail, which demands that safety be guaranteed, they are contracted by the constructors. This double responsibility demands balancing acts of Vigirail's workers. Like the workers of Audire, they work on sites where their customers are in charge. This often leads to conflicting interests.

The average Vigirail worker is of senior age and was in the employment of ProRail or Dutch Railways before the wave of privatisation wave swept through the country. Many of them have physical impairments, which is why they have taken up this occupation in the first place. Their work demands relatively modest physical fitness and a high degree of experience and responsibility.

3 Country Cooperative

Country Cooperative is one of the smaller companies we visited after we dropped the criterion that there must be some form of formally organised social dialogue. This visit gave us an insight into labour relations within a cooperative, whose owners and workers live side by side in the same rural community.

The management representative, a fairly young agricultural engineer, is enthusiastic about the small size, the short communication lines and the high level of commitment. In his view, these characteristics make a company more competitive. Whereas most surviving cooperatives have a long history, this particular company (which supplies farmers with cattle feed) adopted its current model in 2008. That happened when its only choice seemed to be either a takeover or a merger. It has been successful ever since.

Hazardous conditions for workers include dust, noise and lifting. According to the management representative, his workers, who grew up on farms themselves, take risks they should not be taking. During our visit, the company was handling a specific issue; another firm in the same business in the same community had had a fire and could not produce. Country Cooperative helped out and produced for its competitor, but it had now overstretched its capacity and this resulted in errors. The management representative acted on this. He tried to eliminate *all* peak times, as he finds them disruptive. To this end, he visits cooperation members and asks them to plan ahead.

Once a year, a meeting with all parties concerned is held in the director's office. Owners and workers go through the books together. Safety and health can be discussed too, but that does not happen.

A clear case of social dialogue and worker participation was the refurbishment of the factory. The whole layout was changed, which had consequences for all workstations, routes, daylight and so on. The whole plan itself was the result of one worker's initiative, and during the planning and execution phases everyone could contribute their own points of view. The management representative says that the result is far better than it would have been without this process of active worker participation.

Services, middle

1 *Barrel*

On our address list, Barrel was in the column 'services', but in reality it produces steel drums. The company works in shifts (two or three shift schedules) and employs relatively many older workers (55 years old and over).

Apart from physical factors (noise, chemicals, damp, machinery) these older workers have difficulty in keeping up with automation. The employee representative expects that an ongoing survey will reveal that this causes stress. The management representative, a safety and health manager who has had advanced training in safety management, also worries about rising stress levels, which he relates to the typical management culture in any multinational company: pressure is passed on downwards, from a faraway headquarters to the shop floor. It deserves attention that the company's headquarters shows interest in the subject too. It is not entirely satisfied with the reassuring results that medical checks provide and it has supported a works council initiative to dig deeper, with a survey. This was still under way when we visited.

The management representative takes pride in redesigning all safety and health systems and promoting safety and health awareness fiercely ('What I do is stalk everyone, until they get bored with me and do things my way'). The employee representative also makes safety rounds throughout the factory. People know him. However, he says that their interest in the activities of the works council is not very high.

2 *Shipeneer*

Shipeneer is a technical service provider in the port of Rotterdam. Its core activities are installing and servicing communication and navigation equipment on board ships, automation and energy technologies. The company was taken over by an international company in 2015. The company employs 55 staff and has set up a works council rather recently. Previously, however, it had an employee representative body.

Almost all customers in the branch demand that the companies delivering the above services be certified in the field of safety. This is the main reason why Shipeneer has put safety high on the agenda. The company's certificates (among others ISO 9001 and the Dutch VCA) require that the management consult employees on a regular basis. This clearly boasts the possibilities of workers contributing to safety and health matters. Nevertheless, this contribution appears to be exclusively on an operational level. All OSH matters that should be discussed with the works council on the basis of the WCA and the WOR are actually decided unilaterally. The employee representative's knowledge in the field of OSH was rather limited.

Services, large

1 *Hubbers*

Hubbers BV ('BV' is the Dutch equivalent of 'Ltd' or 'GmbH') is a legal entity within a bigger logistics concern. It employs hundreds of workers, notably truck drivers, warehouse workers and office clerks. It serves the main routes between 12 hubs on the continent, and is a hub itself. Recently, its managers have become responsible for the other 11 hubs, which means that their jobs have become considerably more demanding. Because Hubbers is responsible for the backbone of the whole network, it is treated leniently by higher powers in the company. It can take safety and health matters into its own hands and spend money on these matters, without OSH measures having to be profitable. The works council knows how to benefit from this; for instance, it insisted that the company hang on to its own company doctor, with whom the company is very satisfied.

The management representative, who works in human resources, gives an unexpected example of a stressor that weighs on the minds of some workers and impairs their productivity: private debts. The company provides them with financial coaching, which has had some success.

As is the case with Glasswool, RollingPress, Dutch Delhi and NoFer, the works council of Hubbers has close relationships with union officials, who regularly visit the premises. The company has its own collective agreement, which contains provisions on extra leave for senior workers.

Safety issues mostly involve fork lifts and also conveyor belts. Truck drivers run the risk of being robbed; various countermeasures have been taken. Production peaks can reach considerable heights, but the employee representative says that workers take these for granted. There is not much controversy over safety and health, except for the following: the employee representative says that management is trying to squeeze out the last remaining 'grey absenteeism', but he has said that he fights this: 'Nothing much can be gained any more in this field'. He states that the current figure for short-term absence is 0.8 %.

2 MentaWorks

MentaWorks is an organisation that helps people 'with a distance to the labour market' (such as workers with physical or mental handicaps) to find a job in regular companies or sheltered workshops. The organisation works together with over 250 'regular' companies that can employ the people under the auspices of MentaWorks.

The works council consists of 13 persons, one of whom is the safety and health manager (the management representative in our interview). As the OSH manager also has to consult with the works council, this may put the manager in a difficult position. He attempts to keep his different responsibilities apart, and successfully so. The close alliance between the OSH manager and the works council was also evidenced during the interview, which, owing to time constraints, was with the management representative and the employee representative together. Both respondents took turns in addressing different issues during the interview, adding information in close agreement. The interview was a fine example of good labour relations and its beneficial effect on safety and health management.

Workers are involved in risk assessment by means of 'photo safaris' at shop floor level (i.e. inspecting the shop floor, meanwhile taking photos). According to both respondents, this sometimes leads to a focus on minor details. In addition, the employee representative complained that workers seldom react to calls from the works council and afterwards complain that the works council does not involve the workers. This may perhaps be attributed to the limited capabilities of the workers, but was also addressed in other cases.

Public, small

1 Grammar School

Grammar School, our only case in the education sector, falls under a special Dutch law for codetermination in primary and secondary schools. Half of the seats in its codetermination council are for employees, the other half for parents. The school is part of a large foundation comprising 25 schools. The management representative says that he can hardly decide anything for himself.

Dutch schools are notorious for having high rates of sick leave and complaints about stress among their teachers, but those levels have declined to below average values in the schools that are part of the foundation. Teachers who underperformed have had to leave, which resulted in the average age falling and teachers being physically and mentally fitter. Stressors do remain, however, and some of these are new. One such new stressor is the arrival of new teaching methods; another is the government's policy to cut back on education for pupils with special needs. They have to be 'integrated', without extra budget. A third factor is the deterioration in behavioural attitudes of both pupils and their parents, which has made safety protocols a necessity. The management representative finds the codetermination council very helpful in this respect: it serves mutual understanding. Facilities for team members in the council do not exist any more, as a result of cutbacks. The management representative finds their input less valuable than the input he gets from parents.

All team members participate in discussions about new accommodation. The priority of the management representative is ventilation. 'Ventilation is always a headache, in schools. We have CO₂ alarms, but we have turned them off because they never stopped squeaking.'

The employee representative has been a member of the codetermination council for 10 years. She has not pursued special training recently, nor does she feel that she should. Safety and health is not high on the agenda. The employee representative tells us that absenteeism has been more than 10 % in the past. Her explanation for the difference from current rates is not that the staff are younger and fitter now, but that the team has suffered under the frequent coming and going of headmasters (5 different persons in 10 years). Absenteeism became normal again as the leadership situation stabilised, she says.

2 Shelter Lodge

Shelter Lodge is a long-stay accommodation for a special category in the Dutch care system: psychiatric disorder *and* addiction *and* mental impairment ('triple diagnosis'). Many clients either have come into contact with the judicial system in the past or, are at risk of coming into that kind of situation. Although Shelter Lodge is financed with public money, it is a family enterprise with 91 years of experience. The management representative, who was trained as a hotel manager, is 'third generation'. He lives on the premises with his family. His motto is: 'As long as my family feels safe here, working conditions are safe for everyone.' His 10 staff members (for 40 clients) seem to feel the same way. The sick leave rate has been stable at 0.8 % for years. People only seldom resign.

The employee who was presented to the researchers as employee representative turns out not to be an elected representative. That he carries this title has to do with a sector-specific certification scheme that we were not familiar with before, called Harmonisatie Kwaliteitsbeoordeling in de Zorgsector (HKZ; Model for the Quality Harmonization of Caregivers). To obtain the certificate, organisations are required to have someone representing the employees. When we asked how this representative was elected, the management representative admitted: 'We had to pick out someone for this.' As we observe the two, it is our impression that the employee representative is the management representative's right hand if not his crown prince.

3 Villekula

Villekula is a small organisation in childcare (nursery school). The management representative is also the co-owner of the company. She takes both safety and health seriously, not least because the safety and health of the workers is closely connected to the safety and health of the children. Most procedures in the field of safety and health are derived from protocols issued by public health authorities rather than occupational health regulations. The number of staff is higher than required by the childcare legislation, partly to reduce work pressure on staff and to fight absenteeism.

The management representative clearly has a hands-on attitude, meaning that she is completely in charge. Even if all staff are encouraged to have their say, in the absence of formal worker representation it was found that all formal decisions in the field of OSH (such as the risk assessment, sickness protocols and the selection of the OSH physician) were taken without consultation. Formal representation is not deemed necessary, because 'the lines are short in this organisation'.

Public, middle

1 Chrisanity

Chrisanity is a private institution that provides mental health care in the Dutch Bible belt. It is financed from public funds and by health care insurers. We spoke to the management representative and an employee representative of one of three large geographical units. Unlike all other interview partners, both wanted to speak with us over the telephone. This was because they were constantly on the move.

One thing stands out in this case: back office employees came under much higher pressure when the financial responsibility for mental health care in the Netherlands shifted from state level to municipal level. Before, they used to have contracts with one insurer only. Now, their contract partners comprise 189 local authorities and 5 insurers. The sick leave rate has risen considerably in the past year, mostly in back office functions and mostly because of job pressure. Another factor, according to the

management representative, is that local authorities put pressure on the organisation to employ candidates of their preference who are not as fit as other candidates ('affirmative action').

In non-office functions, aggression from patients is the most common hazard. There have been cutbacks in staff, but the employee representative says that these have not worsened the safety situation.

The works council exists at national level only. The employee representative is a member of this works council. He says that the organisation barely escaped bankruptcy two years ago, that there are frequent changes in management positions and that employees are in survival mode. Safety and health is not their top priority.

2 Crossroads

Crossroads operates in the same field and under the same external constraints as Chrisanity. It is having a very hard time too. The week before our arrival all managers lost their positions; they will have to apply for new jobs in a reorganised setting, except for our management representative, who is retiring. He is responsible for all facilities and services that are not directly part of the primary process. He reports to the board about safety and health issues for the whole institution, nationwide. To this end, he has built elaborate online monitoring systems that have given him a real-time insight into lots of variables. However, things such as job pressure are not among his competencies. Precisely this affects every single aspect of working conditions, including a lack of candidates for the works council among caregivers (90 % of the workforce).

Not long ago, the employee representative used to be a member of management, but recently she has become a training official in one of Crossroads' geographical subsidiaries, which has a works council of its own. Both the management representative and the employee representative gave examples of very severe cutbacks and layoffs and have predicted that people are going to resign or collapse. There have been talks between the works council and management about unacceptable work pressure, but very recently another topic moved to the number 1 position on the agenda: a possible merger. This has resulted in less attention being paid to safety and health issues.

Public, large

1 Hopital

Hopital is a former municipal hospital, which was privatised in the late 1990s and is now a privately owned hospital. This process of privatisation has been very turbulent and has led to high levels of absenteeism. The main risks are physical overburdening (heavy lifting) and high work pressure.

The works council of Hopital is large (15 members) and experienced. Even though most of its energy is devoted to the aftermath (or rather the continuing processes) of privatisation, the works council does have a professional and effective role in OSH too. According to the management representative, so does the safety and health manager, as 'the works council knows much better than I do what's going on at shop floor level'. In addition, the safety and health manager forges strategic bonds with the works council if she wants to get things done. 'When I tried to convince management of the need of measures to fight physical overburdening, management was rather hesitant as this would cost money. When the works council got involved, and later the labour inspectorate, the situation finally changed for the better'.

It is quite clear from this case study that effective employee representation benefits greatly from the presence of well-trained and experienced representatives, who do not hesitate to use their formal powers.

2 Twin City

Twin City is a middle-sized municipality (population of 30,000), with an experienced works council. Safety and health are not really top priorities, because the risks are considered to be low. Nevertheless, this case was one of the few examples in which 'work stress' was proactively dealt with as a strategic issue: in the various processes of reorganisation (due to the merger of two municipalities) that had swept

through the organisation over the past few years, the works council always addressed the effect it would have on work load and other stressors *before* it issued its advice on the basis of Article 25 of the WOR.

In addition, consultation with the employee representatives (works council) is quite tightly organised (regular meetings, abiding by formal procedures, adequate time and other facilities for the highly skilled works council's members), which clearly helps to the effectiveness of worker representation. As the manager of Twin City put it: 'the works council is the fifth member of my management team'.

The European Agency for Safety and Health at Work (EU-OSHA) contributes to making Europe a safer, healthier and more productive place to work. The Agency researches, develops, and distributes reliable, balanced, and impartial safety and health information and organises pan-European awareness raising campaigns. Set up by the European Union in 1994 and based in Bilbao, Spain, the Agency brings together representatives from the European Commission, Member State governments, employers' and workers' organisations, as well as leading experts in each of the EU Member States and beyond.

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