

PORTUGAL'S DESIGNATED EMPLOYER/EMPLOYEE TRAINING MODEL FOR ENHANCING OCCUPATIONAL SAFETY AND HEALTH (CASE PT7)

Introduction

Promoting effective occupational safety and health (OSH) practices is key to safer and healthier workplaces. Improving arrangements and practices for managing OSH across a whole range of industry sectors and firm sizes – large, medium and small – is stimulated, supported and sustained by a range of institutional actors and internal and external processes to firms. Scientific research highlights, among other things, the critical role that state regulators for OSH, such as Labour Inspectorates and prevention services, can play (EU-OSHA, 2021). This case study is part of a research project conducted in Portugal to provide further insight into this topic.

Portugal is characterised by a highly fragmented business structure, with a predominance of micro-enterprises and SMEs (OECD, 2022). In 2022, these enterprises constituted 99.6% of Portugal's enterprises — of which 81% were micro-enterprises — employing 68.8% of the labour force (GEP, 2023). These companies employ the majority of the workforce in Portugal. Moreover, micro-enterprises and SMEs are key players in global supply chains, which can reinforce the need to improve OSH management and their support (EU-OSHA, 2022). Yet, micro-enterprises and SMEs are traditionally harder to reach to enforce OSH compliance.

The third European Survey of Enterprises on New and Emerging Risks (ESENER 2019) data revealed that micro- and small enterprises continue to face significant challenges in OSH management. While most large establishments conduct regular risk assessments, smaller establishments (particularly micro companies) are far less likely to do it (EU-OSHA, 2022), highlighting a consistent gap between establishments of different sizes.

In the case of micro-enterprises, the law allows for the appointment of a designated employer or employee¹ as an alternative to hiring external services, subject to authorisation from the Portuguese Authority for Working Conditions (Autoridade para as Condições do Trabalho – ACT).

Law No 102/2009², of 10 September, which defines the Legal Regime for the Promotion of Safety and Health at Work, states that in companies, establishments or groups of establishments (up to 50 km from the largest) with a maximum of nine workers and whose activity is not high risk,³ the following may carry out OSH activities:

- i) the employer themselves, if they have adequate training and habitually stay in the establishments; or
- ii) one or more employees, designated by the employer, provided they have adequate training and have the necessary time and resources to do so.

As companies do not adopt this modality very often, a strong investment has been made by ACT since the first trimester of 2023 to promote training for designated employers and employees.⁴ For this reason, this case study outlines this specific OSH preventive training initiative aimed at micro-enterprises.

¹ See: https://portal.act.gov.pt/Pages/Empregador_trabalhador_designado.aspx

² See: <https://diariodarepublica.pt/dr/legislacao-consolidada/lei/2009-56365341-106425840>

³ High risk activities are, according to Law No 102/2009, all of those stated in the following list:
https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1158A0079&nid=1158&tabela=lei_velhas&pagina=1&ficha=1&nversao=3

⁴ See:
<https://portal.act.gov.pt/AnexosPDF/Documenta%C3%A7%C3%A3o/Brochuras,%20folhetos%20e%20cartazes/Folhetos/Flyer%20ETD.pdf>

Description of the case

The development of this training programme involved two public organisations, both supervised by the Ministry of Labour, Solidarity, and Social Security Ministério do Trabalho, Solidariedade e Segurança Social – MTSSS):

- i) ACT, responsible for raising awareness and publicising the training actions among companies; and
- ii) the Institute of Employment and Professional Training (Instituto do Emprego e Formação Profissional – IEFP, I.P.) — the public employment service that has two main areas of responsibility in Portugal, employment and professional training — responsible for providing training actions, respecting the requirements established by ACT.

As mentioned by an OSH expert at ACT, this programme involved the two bodies from the MTSSS so that the training could be provided free of charge, after realising it needed to be more disseminated:

'We worked together with the IEFP to provide companies with training for their workers — free training — to train workers in matters of safety and health at work. We felt the need to invest in the organisation of services for micro-enterprises in the form of designated employers or employees, provided for in the legislation, but we concluded that it had little use. On the one hand, because there is lack of knowledge; on the other hand, because both the employer and the employees are not qualified to do so, therefore, there is a need to resort to external knowledge.' (OSH expert at ACT, Female, 13 years of seniority)

The aim is not only to create conditions so that micro-sized companies can meet the requirements to request authorisation from ACT to assume responsibility for OSH internally, but also to increase the knowledge within these companies regarding OSH matters, raising awareness and progressively contributing to the development of a safety culture in micro-sized companies.

'We developed joint work with the IEFP, which immediately supported us. And we worked on promoting this type of organisation of services, but also on training, in terms of the means of how this could be done, to make training easier for companies and train workers to empower them, whether they end up adopting this modality or not. But it [the training] will be a way of granting more knowledge [on OSH matters] within micro-enterprises.' (OSH expert at ACT, Female, 13 years of seniority)

Aims

Increase awareness and know-how within micro-enterprises, whether of employers or employees, so that these actors can demand more from the company as they become more knowledgeable about OSH. Furthermore, the better they understand the legal requirements, the more likely they are to comply, thereby promoting the importance of OSH and fostering a safety culture in micro-sized companies.

For micro-enterprises, this practice can provide them with an opportunity to reduce costs by meeting legal requirements regarding the organisation of OSH services, avoiding hiring external services. It is important to emphasise that legal compliance should not serve as the primary motivation for organisations. As has been extensively acknowledged, adherence to legal standards does not necessarily equate to a sincere and effective advancement of OSH within the workplace.

Target group

In micro-enterprises (i.e. up to nine employees), and whose activity is not considered high-risk, so that they can carry out OSH activities:

- the employers themselves if they have adequate training and are usually present in the establishments; and
- one or more employees, upon designation by the employer, provided they have adequate training and have the necessary time and resources to do so.

What was done, and how?

ACT developed and promoted awareness-raising actions across the country. The IEFP developed training programmes and offered them free of charge throughout the country. The programmes were also decentralised in various centres of the IEFP network, which has a widespread presence in almost all municipalities.

The IEFP's training programmes were 50 hours long in total. They focused on the following contents: basic concepts of safety and health at work; general risks and specific risks in the respective sector of activity; and risk prevention management. The trainers are selected from the IEFP trainer pool, and they are all OSH experts with higher education and a Certificate of Pedagogical Competencies (i.e. authorisation to conduct training activities).

While this initiative is still in progress, it was envisioned to adapt to the needs of micro-enterprises. The program is free, it is carried out in various places across the country to guarantee geographic proximity, in person and online, during the day and also after work, to reach employers:

'This is work that we are still developing, but it is already generating consequences and fomenting some changes, including in the requests we have from companies asking for authorisation; because in addition to training, there are other requirements and companies have to ask us for authorisation to organise the service in this modality. Therefore, there has already been an increase in the requests that we have in this regard, but although this is not enough, we think it is beneficial, because training is being provided to workers and employers on these issues. So, more knowledge is being made available for these micro-enterprises, because we also know that there is a lack of training, a lack of knowledge and, moreover, workplace accidents and occupational illnesses also exist in these companies. Until now, it has also been one of our concerns. We also develop campaigns, and campaigns usually have two aspects: an initial information and awareness part and then an inspective aspect. After training, as a rule, an inspective action follows to check whether [the training information] has been applied.' (OSH expert at ACT, Female, 13 years of seniority)

'This year, for example, we carried out several awareness actions for the designated employer/employee in terms of prevention. Almost all were done after 9 pm and some between 7 pm and 9 pm. They were planned with the municipalities, and only employers went. The first thing I told them was that they were welcome and that we were there to clarify ... They should be the main users of our information service so as not to make mistakes and not commit illegalities. Because many of them don't want anything to do with us [ACT]. Because they keep committing illegalities. We have to be honest and fair, that's what I tell them.' (Labour inspector, Male, 15 years of seniority)

Degree of innovation

External services are the prevalent model of organising OSH services in Portugal (representing 92.2% of the total services in 2022, according to data from the MTSSS). The designated employer or employee is a modality that is only available to micro-enterprises (as an alternative to the external services

acquisition). In this case study, the innovation fundamentally lies in the state's role in publicising and free training of nominated workers and employers, intending to manage OSH in micro-enterprises. After the training, they can request authorisation from ACT to perform OSH functions within this modality. This authorisation is revoked whenever one of the following situations occurs in the company, establishment or group of establishments:

- a fatal occupational accident due to a violation of OSH rules for which the employer is responsible;
- the employer has been convicted in the last two years of committing a very serious infraction in matters of OSH or is a repeated offender of committing a serious infraction in matters of OSH; and/or
- the employer has not communicated to ACT the change in the elements that supported the authorisation, within 30 days.

If the authorisation is revoked, the employer must adopt another typology of OSH service within 90 days.

Approach

This initiative reflects a preventive and pedagogical approach, namely because it:

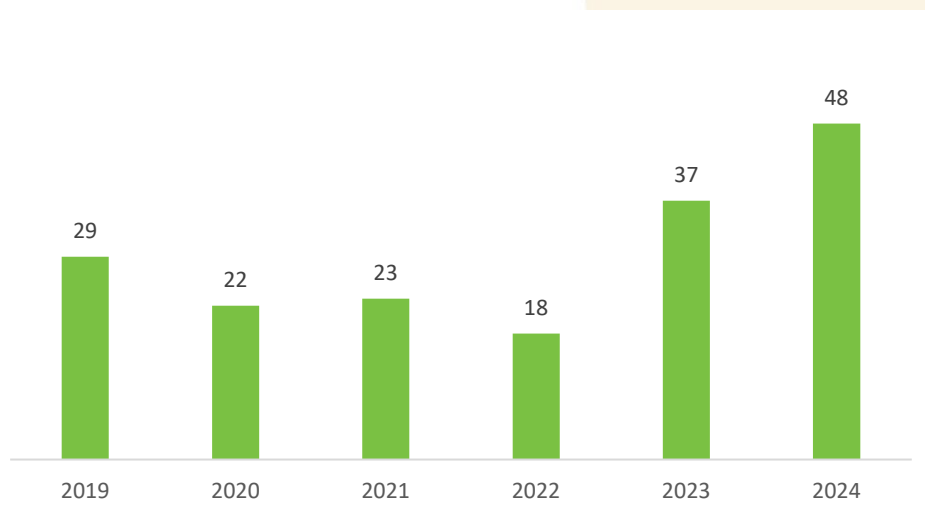
- increases knowledge and promotes dialogue about OSH;
- raises awareness and promotes skill development of both workers and employers in the domain of OSH; and
- allows companies to adopt this modality of organising OSH services, which is still scarce in Portugal, according to ACT's data.

What was achieved?

The training programme was implemented in 2023 and will continue in 2024, with the development of informational actions regarding this modality of organising OSH services. In 2023, 65 information/awareness-raising actions were conducted, and by the end of August 2024, 61 actions had been carried out in 2024, some in collaboration with the IEFP. In 2023, more than 2,500 employers and workers participated in the awareness-raising actions, and the actions carried out in 2024 have already covered approximately 2,000 employers and workers.

Figure 1 showcases the evolution in the number of authorisation requests submitted to ACT to carry out OSH activities using the designated employer/employee model, between 2019 and August 2024.

Figure 1: Evolution of the number of authorisation requests submitted to ACT to carry out OSH activities using the designated employers/employees model



Success factors and challenges

The success factors of the designated employer/employee modality include the awareness-raising actions carried out by ACT, which contributed to the dissemination of these training actions and information about how it works. Another success factor is the training programme's free nature and the training institution's quality (i.e. certified training). However, the 'success factors' of this practice must be interpreted with caution, due to the fact that this is a recent measure, and also due to the fact that the number of requests for authorisation submitted to ACT after the training are still very low.

The support provided by all social partners is also a key factor in the success of this practice. Both employers and union representatives appreciated the measure and had anticipated more participation than what was actually observed. They are now trying to understand how to improve the level of engagement, particularly the conversion rate of trainees into requests for authorisation submitted to ACT.

In 2022, the external services represented 92.2% of the total services, 7.1% were internal services and 0.4% adopted the designated employer/employee modality (GEP, 2023 - Office for Strategy and Planning - Ministry of Labour, Solidarity and Social Security). As can be seen in Figure 1, the number of requests to carry out OSH activities in this modality has increased in 2023 and 2024, but not as expected by ACT and the social partners. Thus, there are challenges that should be addressed.

For instance, it is important to understand the reasons behind these numbers. Those reasons may stem from challenges related to cultural barriers, with companies unwilling to take on responsibility, preferring to outsource and have the reassurance of compliance. Another possibility is the low level of literacy in OSH matters, which may leave employers feeling insufficiently confident to assume these responsibilities internally and believing that the services offered by providers are more likely to ensure legal compliance. This can also reflect the lack of an established safety culture in the majority of micro and small companies.

One of the challenges of this practice regards the evaluation of the impact of the actions carried out, and to what extent they were consequential for micro-enterprises. That is, to what extent they contributed to an effective improvement in OSH practices and not just as a means to diminish economic investment in external OSH services. For this, it would be useful to develop a scientific evaluation of the designated employer/employee model, compared to other companies with external services. Similar models of "alternative supervision" have been successfully evaluated in Germany (EU-OSHA, 2024). Another challenge regards the necessity to increase the number of employers taking part in this training (and, subsequently, the number of employers who decide to request authorisation to ACT to carry out OSH activities), taking into account that so far it has been carried out mainly with employees, while ensuring that this initiative is not only used as a way of reducing investment in hiring external OSH services without effectively improving OSH.

ACT strongly encourages companies to adopt the designated employer/employee modality and, above all, to participate in the training. The goal is to enhance internal knowledge within very small businesses and foster the development of a safety culture.

Transferability to other EU Member States

This is a transferable practice, already used in other countries, although the characteristics of the approach need to be tailored to national contexts.

For example, the criteria that could lead to the revocation of permission to conduct OSH activities under the designated employer/employee modality are defined by Portuguese national law and would need to be adapted for other countries.

Also, regarding the duration of the training, the 50 hours required in Portugal were established to meet the requirements of the National Qualifications Catalogue, enabling the certification of this training.

Further information

Autoridade para as Condições de Trabalho; Homepage: <https://portal.act.gov.pt/Pages/Home.aspx>

Instituto do Emprego e Formação Profissional, I.P. : Homepage: <http://www.iefp.pt>

References

- EU-OSHA – European Agency for Safety and Health at Work, *Germany's Alternative demand-based supervision project AB+: supporting occupational safety and health compliance (Case DE3)*, 2024. Available at: <https://osha.europa.eu/en/publications/germanys-alternative-demand-based-supervision-project-ab-supporting-occupational-safety-and-health-compliance-case-de3>
- EU-OSHA – European Agency for Safety and Health at Work, *Improving compliance with occupational safety and health regulations: an overarching review*, 2021. Available at: https://osha.europa.eu/sites/default/files/Improving_compliance_OSH_regulations_lit%20review.pdf
- EU-OSHA – European Agency for Safety and Health at Work, *Third European Survey of Enterprises on New and Emerging Risks (ESENER 2019): Overview Report. How European workplaces manage safety and health*, 2022. Publications Office of the European Union. Available at: <https://osha.europa.eu/sites/default/files/esener-2019-overview-report.pdf>
- GEP - Gabinete de Estratégia e Planeamento. (2023). *Quadros de Pessoal*. Ministério do Trabalho, Solidariedade e Segurança Social. <https://www.gep.mtsss.gov.pt/documents/10182/10928/qp2022pub.pdf/9907641c-9c42-4a19-a14d-8decc807a207>
- OECD. (2022). *Financing SMEs and entrepreneurs 2022: An OECD Scoreboard*. OECD Publishing. <https://doi.org/10.1787/e9073a0f-en>

Authors: Liliana Cunha and Sarah Maggioli, Center for Psychology at University of Porto (CPUP); Faculty of Psychology and Education Sciences at University of Porto (FPCEUP), Portugal

Sara Ramos, Centre for the Study of Socioeconomic Change and the Territory (DINÂMIA'CET); University Institute of Lisbon (ISCTE), Portugal

Project management: Dietmar Elsler, Ioannis Anyfantis, European Agency for Safety and Health at Work (EU-OSHA).

This case study was commissioned by the European Agency for Safety and Health at Work (EU-OSHA). Its contents, including any opinions and conclusions expressed, are those of the authors alone and do not necessarily reflect the views of EU-OSHA.

Neither the European Agency for Safety and Health at Work nor any person acting on behalf of the Agency is responsible for the use that might be made of the following information.

© European Agency for Safety and Health at Work, 2025

Reproduction is authorised, provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the copyright of the European Agency for Safety and Health at Work, permission must be sought directly from the copyright holders.