

**It is required to ensure employee involvement in the field of occupational safety and health**  
**Administrative penalty and occupational safety and health fine can be imposed on persons who**  
**violate the law**

Under Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, employers need to discuss all questions regarding safety and health at work with employees and their representatives. Its implementation appears in the provisions of Act XCIII of 1993 on Labour Safety (Mvt.), which specify this general requirement. These statutory requirements impose countless obligations on employers and grant rights to employees. They and the consequences of their non-compliance are presented in followings:

**Cases when a safety and health representative must be elected**

Basically, the election of the safety and health representative must be held at such employer, where the number of employees is at least 20. The half-year headcount must be taken into account in establishing the number of employees. Within the framework of simplified employment, employees are included in the number if the period of their employment exceeds 5 days. Therefore temporary employees may not be taken into account. Employees who receive different child care allowances must also be disregarded.

However, it is not the lower limit of employers' obligations. If the trade union, a shop steward operating at the employer, or in their absence, the majority of employees initiate the election of the safety and health representative at the employer who employs less than twenty employees, the election must also be held in this case. The election is the individual right of employees, and the employer only has a role in transacting the election and providing for the conditions. However, his consent is not needed.

The safety and health representative may be elected at the individual establishment, division of the employer, if the rights of employers regarding occupational safety and health specified in Sections 54-56 on Labour Safety Act are due, partially or fully, to the head of the individual establishment or division.



The law does not provide for the number to be elected; it must be resolved on the basis of reality and real need (the activity, the size of the territory, the number of employees etc.) but the principle of economic rationality must be applied. In this respect, the Parties need to consult.

**Cases when an occupational safety and health committee may be established and its types are as follows**

If the number of safety and health safety representatives reaches 3, in this case, an occupational safety and health committee **may be established**. In this case, the committee exercises the rights due to the health and safety representative. The law does not specify the number, a proportionate representation must be ensured by consulting the employer. In case of such employer (a company limited by shares, a holding), which has more establishments and on which territory there are at least 3 safety and health representatives, it is justified to establish a local safety and health committee, the task of which committee is the local inspection of conditions of safe work without endangering human health. More than one local safety and health committees may establish a central safety and health committee at work.

**Cases when the establishment of a parity based occupational health and safety body is mandatory**

The employer, who employs at least 20 workers and where safety and health representatives operate (at least 2), the employer is required to establish a parity occupational safety and health body on a total payroll level, (comprising an equal number of representative of each party). The law does not specify the number of the members but the body must have at least 4 members. The role of the body is to be engaged in real and effective dialogue, consultation in order to ensure the conditions of safe work without endangering human health. It evaluates the situation of occupational safety and health at least once a year; it gives opinion on drafts of related regulations as well as discusses and follows the local health and safety program. Employers are obliged to delegate an executive officer into the body according to Section 208 of the Labour Code!

**In the absence of health and safety representative, employees must be consulted**

According to the requirements of the Act on Labour Safety, employers are obliged to consult with employees and safety and health representatives in order to ensure health and safety of workers at work, as well as to ensure them the opportunity that they may participate in the prior discussion on



employer's measures for safety and health in a timely fashion. Its primary form is the election of the safety and health representative; in the absence thereof, however, employees are obliged to do so. Its form is the locally customary form: workshop, intranet, on-the-spot inspection, meetings etc. Employers must keep the resulting documents, and the employees are entitled to examine them. At the discussions, employees must be informed on relevant questions regarding occupational health and safety in a clear and simple language (risks at work, the method and conditions of defence, individual and collective protective equipment, information and instructions etc.), in this context rights must be provided to employees to make proposals. It is essential that the employer must be represented by a person with powers to take actions at the discussions. Finally, the employer's obligation is to organise occupational safety and healthy trainings.

#### **Double penalty system is applicable**

The occupational safety and health authority imposes occupational safety and health penalty, which amounts from HUF 50,000 to HUF 10,000,000 per establishment, on the employer, which fails to ensure the conditions of safe work without endangering human health. However, the legislator has also allowed to impose an administrative penalty up to the amount of HUF 500,000 for half a year. This type of penalty can be imposed on natural persons, thus both employees and the person exercising employer's right can be affected. Penalty can be imposed on a natural person who as the representative of the employer prevents the safety and health representative from exercising the rights granted by occupational safety and health rule, or it takes unfavourable measures against the safety and health representative due to exercising his rights.