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The future of works councils in Poland – prospect of extinction of a new form of employee representation

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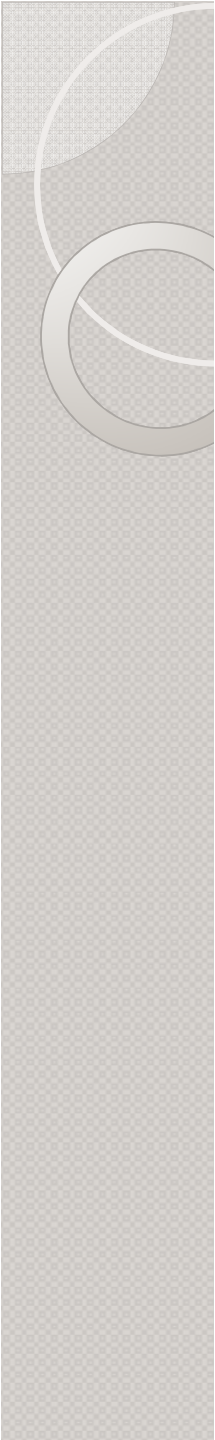
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Structure of the presentation

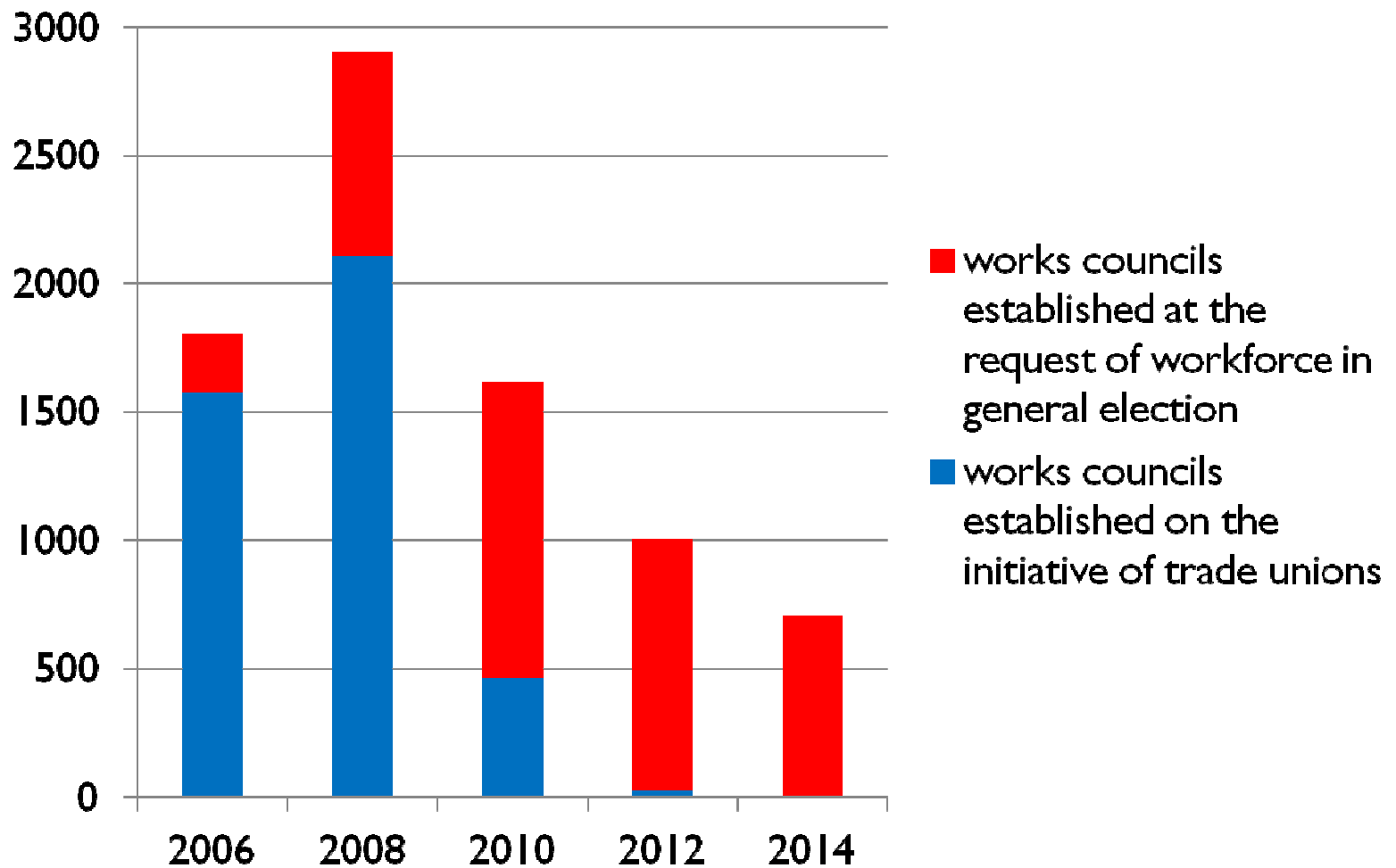
- Number of works councils
- Research questions and method
- Information & Consultation
- Relations between works councils and employers
- Relations between works councils and trade unions
- Activity of works councils
- Role of works councils
- Problems and barriers

Introduction

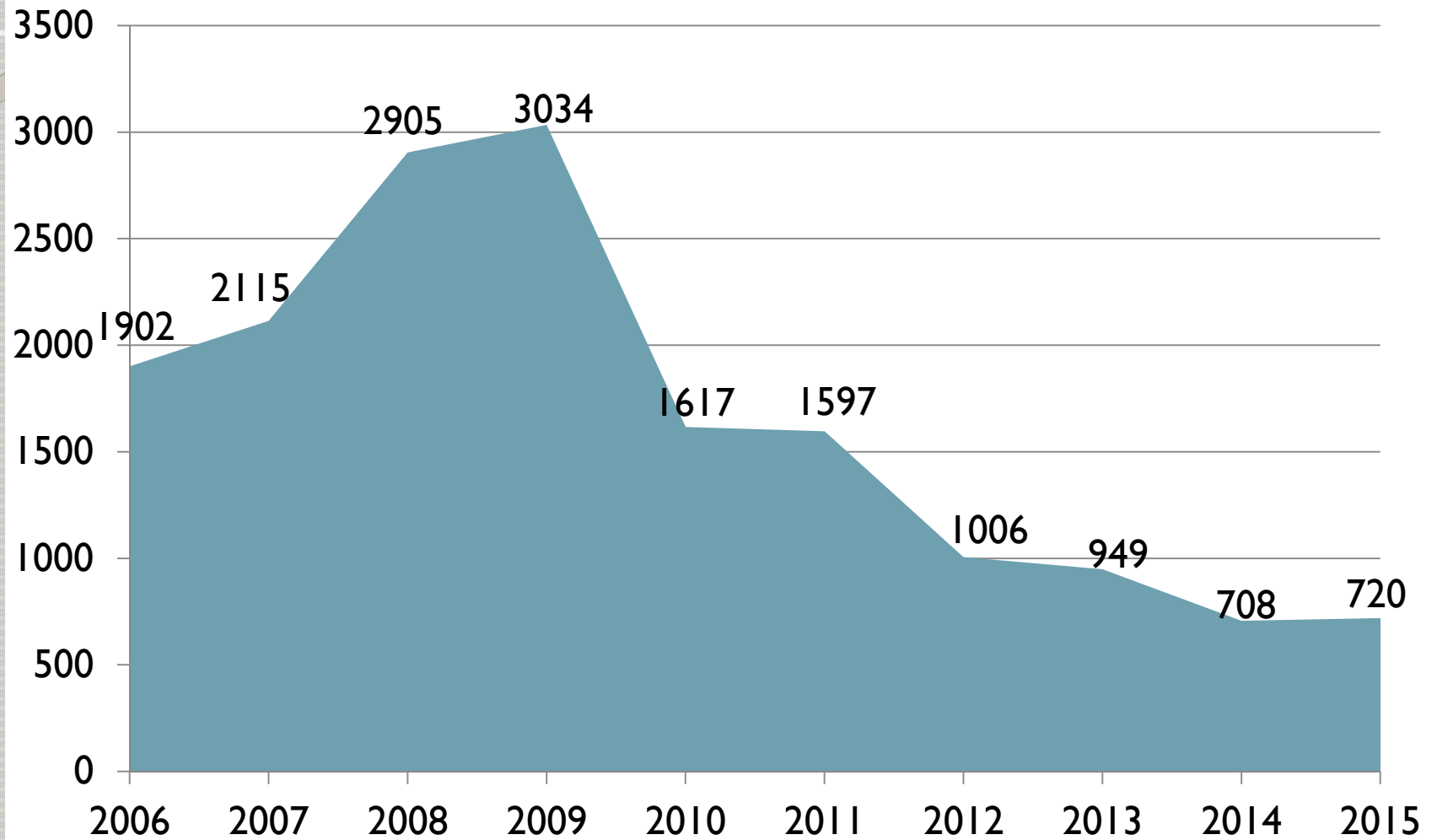
- The *Act on Informing and Consulting Employees* from April 2006 implementing Directive 2002/14/EC introduced in Polish enterprises a new form of employee participation in the form of works councils. This resulted in a significant change in Polish industrial relations - pure union representation (except for state-owned enterprises also having employee councils) has been transformed into a dual representation system (trade unions and works councils).
- The implementation of the Directive in Poland was delayed because of considerable disagreement between the state and social partners regarding the content of the Act.

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- The Act introduced two ways of establishing works councils:
 - 1) *at the written request of at least 10% of employees in general election in non-unionised companies;*
 - 2) *on the initiative of trade unions in unionised companies.*
 - Polish Act violated the provisions of the EU Directive, under which all workers were guaranteed the right to be informed and consulted. Therefore the amendment of the Act from May 2009 completely eliminated the union-based mode of appointing works councils.

The number of works councils in Poland



The number of works councils in Poland



Research Questions

- What is the main role of works councils in the Polish industrial relations?
- What is the composition of works councils after the amendment of the Act?
- Do works councils exercise their rights to information and consultation in practice?
- What are mutual relations between works councils and trade unions?
- What are the causes of the low number of councils in Poland?

Data and method

- This presentation is based on the results of a research project funded by the National Science Centre in Poland. There were two main stages of the research:
 - 1) Questionnaires sent to chairmen of works councils and directors of companies with these institutions.
 - 2) In-depth interviews carried out with the chairmen of the councils, company management and chairmen of trade unions.

- Names and addresses of workplaces come from a database of works councils developed by the MPiPS (as of 31 December 2014).

- The survey covered 242 works councils, i.e. about 35% of the total number of operating councils from the MPiPS database.



The range of rights granted to works councils in Poland

Information on:

1. Activity and economic situation of the enterprise and probable changes in this area.
2. State, structure and probable changes in employment and activities aimed at maintaining level of employment.
3. Activities which may cause substantial changes in work organisation or basis of employment.

Consultation (treated as an exchange of views and dialogue with the employer) refers only to points 2 and 3.

Information & Consultation

Among 242 works councils surveyed in 2015, agreements with employer were signed by 62.5% of them.

Main reasons for not signing an agreement with the employer:

- Works council did not want such an agreement
- There was no need for an agreement
- Lack of goodwill on the part of the employer
- I do not know
- No consensus
- Negotiations with the employer continue

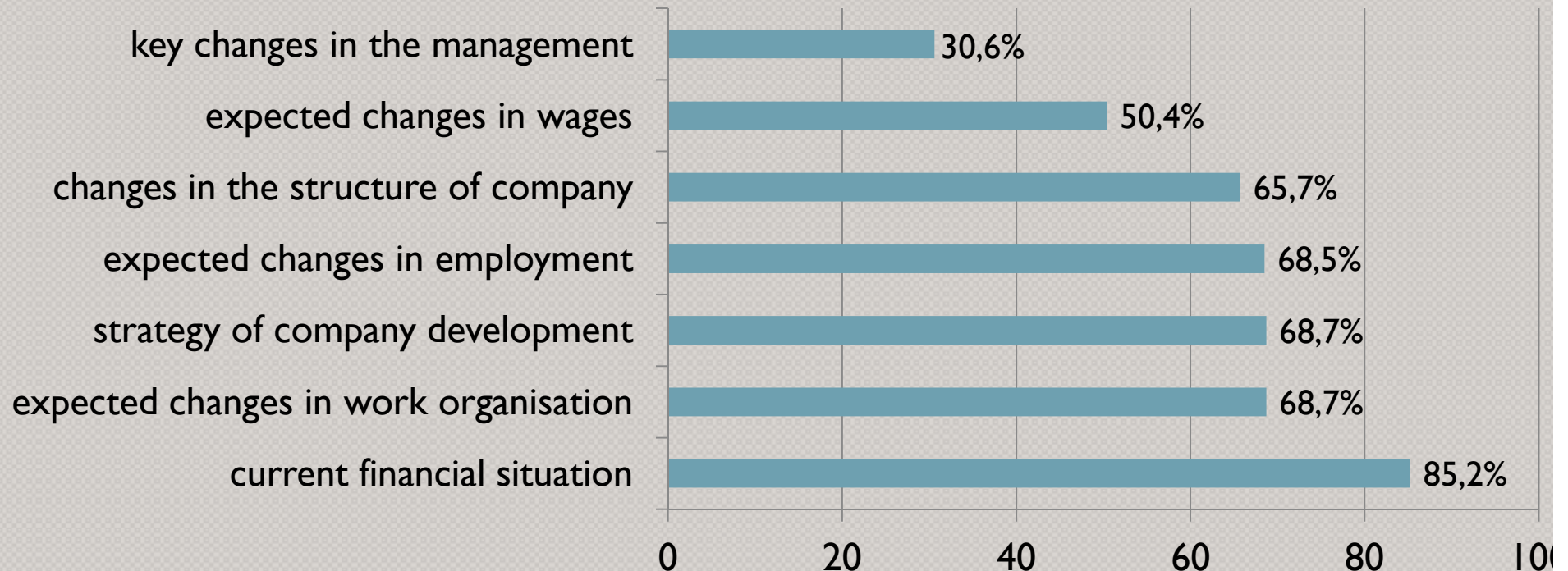
Right of works councils to information

Scope of information provided to the council	
insufficient	12.1%
sufficient	43.8%
extensive	38.8%
very extensive	5.4%

The scope of information provided to works councils was slightly larger in councils operating in enterprises without trade unions than in those operating in unionised companies.

RIGHT OF WORKS COUNCILS TO INFORMATION

Access to information



More than 30% of analyzed works councils do not receive information regarding changes in work organization and changes in employment despite the fact that the Act from 2006 treats this information as obligatory. It means that significant part of the councils are not able to conduct consultation with employers on these subjects.

RIGHT OF WORKS COUNCILS TO INFORMATION

According to *the Act on Informing and Consulting Employees* employer should provide works council with information concerning anticipated changes and intended actions; in addition, information should be supplied at the written request of the council.

Refusal to provide information by employer	
never	65.5%
rarely	28.5%
often	5.5%
always	0.5%

The responses indicate that in general employers comply with statutory obligation to inform works councils. However, the councils rarely ask for this information.

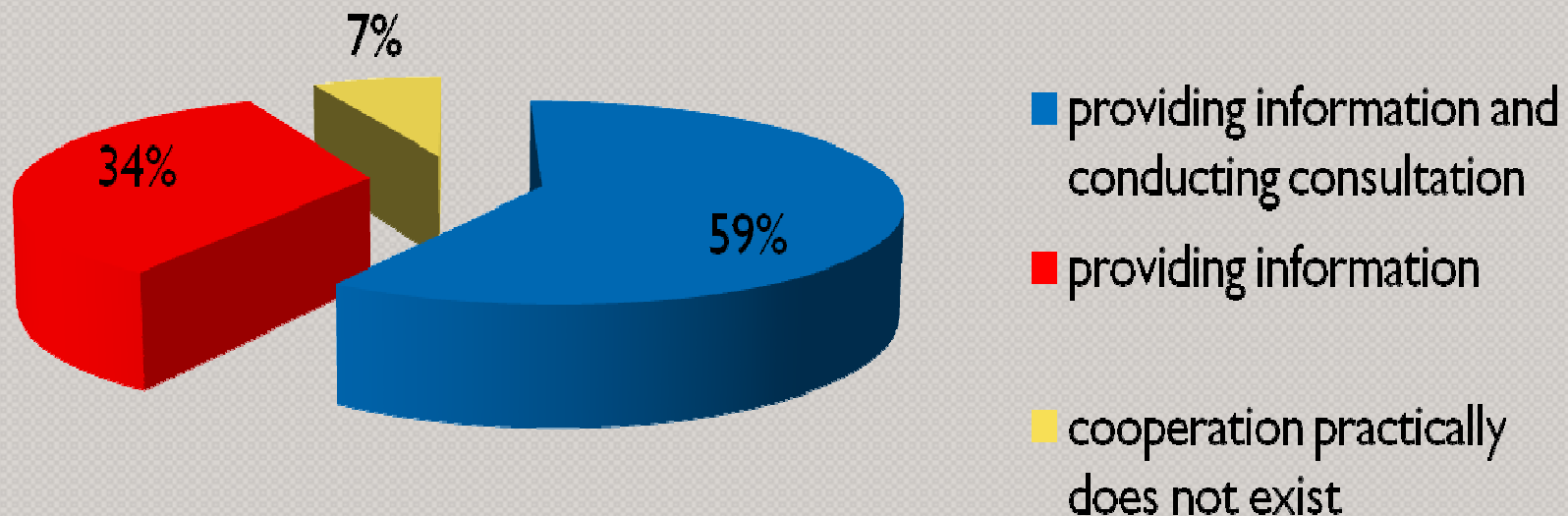
RIGHT OF WORKS COUNCILS TO CONSULTATION

Consultations in the group of councils operating in unionized entities (in particular, when the union representatives are in councils) take place slightly less often than in the group of councils operating in companies without unions.

Conducting consultation	% works councils
Employer rarely conducts consultation with works council	39.2%
Consultations often take place	30.4%
Consultations never take place	17.5%
Consultation always take place	12.9%

Relations between works councils and employers

Cooperation between employer and works council





Relations between works councils and trade unions

- Works councils exist mainly (80%) in unionised workplaces.
- In almost 90% of the analysed unionized workplaces the members of trade unions were also present in works councils. In almost half of these cases all members of works councils were also trade union members.
- Almost 50% of works councils in workplaces with trade unions believe that in many cases the council duplicates the activities of trade unions

Relations between works councils and trade unions

Works councils operating in unionized enterprises generally cooperate with the unions (93%)

Forms of cooperation:

- Consulting by the councils their decisions with trade unions using their background and experience
- Reporting by the trade unions to the council the problems they cannot solve themselves
- Mutual exchange of information
- Support of union consultants for works councils
- Recommending unions' candidates to councils

Activity of works councils

1. Frequency of councils' meetings:

At least once a month	Every two months	Four times a year	Three times a year	Twice a year	Once a year	If necessary
31%	5%	36%	2%	3%	2%	21%

The councils rarely held meetings which may indicate a lack of continuity in their work.

2. Works councils rarely use the assistance of experts or consultants (only 19% of all surveyed councils).
3. Works councils generally do not report to the National Labour Inspectorate when employers refuse to provide information or conduct consultation.



Activity of works councils

4. According to the opinions of the directors of the analysed companies with works councils, in 30% of cases the council is passive and does not actually work.
5. According to the opinions of almost 40% of chairmen of the councils the activities of their institutions are not highly valued by employees.
6. As many as 37% of the surveyed works councils admitted that the activities of their council are only formal in nature, and 29% of councils said that the role of their council was marginalized in the company



Characteristics of the case-study organisations (research in progress)

Sector of organisation	Workforce size	Trade union density/ number of unions in organisation	Individual agreement	Term of works council	Composition of council
Private, design office	90	0%	Yes	I. 2008-2011 II. 2011-2012 III. 2012-2016	Non-union members
Public, forestry	50	60% / 1	No	I. 2007-2009 II. 2009-2013 III. 2013-2017	Union and non-union members
Private, heating plant	60	20% / 2	No	I. 2006-2010 II. 2010-2014 III. 2014-2018	Union and non-union members
Public, property management company	120	0%	No	I. 2006-2010 II. 2010-2014 III. 2014-2018	Non-union members
Private, electronic services company	195	30% / 2	Yes	I. 2006-2010 II. 2010-2014 III. 2014-2018	Union and non-union members

Role of works councils

Category based on questionnaire results	Company	Factors influencing the strength of the council (results of interview with three parties)	Actual position of the council
Information & consultation	Office design	<p>Management's approach: management is open to cooperation and encouraged establishing councils; managing director regularly attends meeting of the council, often alongside HR managers; lack of training for councillors and council's own budget but employer covers council's expenses and provides room for council's meetings</p> <p>Trade unions' approach: -</p> <p>Activity of councillors: council holds meetings at least one a month and often requests information from the employer; councillors want to expand their knowledge by training</p> <p>Practice of I&C process: council obtains a lot of information on financial situation, changes in employment and remuneration; employer tries to take into account opinions and postulates of the councils.</p> <p>Duration of the council: council gained experience</p> <p>Economic context: council was engaged in restructuring process, involving redundancies; chairman of the council is also a member of EWC</p>	Active institution, independent of employer

Category based on questionnaire results	Company	Factors influencing the strength of the council (results of interview with three parties)	Actual position of the council
Information & consultation	Heating plant	<p>Management' approach: management had some impact on election of council's members; managing director attends meeting of councils once or twice a year; lack of training for councillors and council's own budget but councillors don't see the need for training and they don't have financial needs</p> <p>Trade unions' approach: little involvement in cooperation, trade unions recommended their candidates but they have only one seat in a three-member council</p> <p>Activity of councillors: council holds meetings every three months and does not request for information from the employer, the council didn't want an individual agreement</p> <p>Practice of I&C process: council discusses issues regarding remuneration and organisational changes; the council always meets with the employer together with trade unions, director assesses the council's role as not duly used.</p> <p>Duration of the council: the number of terms of the council has little influence</p> <p>Economic context: absent</p>	Passive institution; weak position

Category based on questionnaire results	Company	Factors influencing the strength of the council (results of interview with three parties)	Actual position of the council
Information & consultation	Electronic services company	<p>Management's approach: generally positive attitude but in the opinion of employer works council is not necessary.</p> <p>Trade unions' approach: works council as complement of trade unions; initiatives are submitted jointly by both institutions; council duplicates the activity of the trade union</p> <p>Activity of councillors: councillors treat council as additional voice of workers, besides trade unions,</p> <p>Practice of I&C process: council holds meetings two-three times a year (always meets together with trade unions and CEO); regular information and consultation on important issues including changes in work organisation and remuneration.</p> <p>Duration of the council: some councillors are in the council from the beginning (III term)</p> <p>Economic context: company with employee share ownership</p>	works council as an advisory body

Category	Company	Factors influencing the strength of the council (results of interview with three parties)	Actual position of the council
Information	Property management company	<p>Management' approach: positive opinion about works council (it allows a clear flow of information and is helpful in managing the company); councils received information on employers' own initiative, employer covers council's expenses.</p> <p>Trade unions' approach: -</p> <p>Activity of councillors: the council holds meetings at least once in three months and does not request information from the employer, according to councillors individual agreement wasn't necessary and they don't need training or expert (one councillor is a lawyer)</p> <p>Practice of I&C process: council holds meetings with CEO every three months; extensive information on financial situation, remuneration, work organisation, privatisation process and changes in management; consultation on changes in remuneration and work organisation.</p> <p>Duration of the council: long duration of council' activity caused that workers understood the idea of works councils</p> <p>Economic context: company was in the process of privatisation for a long time</p>	Works council as good communicator between employer and workers

Category based on questionnaire results	Company	Factors influencing the strength of the council (results of interview with three parties)	Actual position of the councils
Lack of cooperation with employer	forestry	<p>Management's approach: in the opinion of management the trade unions actually represent workers not works council; director attends meeting of councils very rarely and does not finance the activity of the council</p> <p>Trade unions' approach: trade unions have significant impact on council's decision, the council duplicates the activity of trade unions</p> <p>Activity of councillors: council tried to work but encountered resistance from management, councillors feel helpless</p> <p>Practice of I&C process: employer very often refuses to provide information, consultations never take place.</p> <p>Duration of the council: due to negative experiences with council's operation the councillors lost motivation and basically stopped their activity</p> <p>Economic context: due to the specifics of the organization all decisions are made at a higher hierarchical level</p>	Marginal role, completely not effective council

Works councils: Problems and barriers

The low incidence and weak position of works councils in Polish companies is a result of many factors (institutional, legal, organizational and structural):

- Weakness of institutional environment and low culture of social dialogue
- The lack of explicit state support for these new forms of representation
- Legal conditions associated with too general and vague provisions of the Act
- Amendment of the Act of 22 May 2009 and its consequences for trade unions
- Article 8 of the Act, which requires that 10% of the staff must sign the request for the establishment of the council



Works councils: Problems and barriers

- Too high employment threshold
- Reluctance of employers
- Insufficient rights of works councils
- Lack of experience and basic legal and economic knowledge to carry out duties by councils' members
- Atmosphere of distrust between the employer and workers
- Lack of confidence in the new participatory institution
- Misunderstanding of the idea of employee participation by workers