

**Project VS/2012/003/0305**

**Summary of the responses to the questionnaires from the survey of the situation in the sector of agriculture, completed as semi-standardized interviews with employers and representatives of employees from the sector, regarding rights to information and consultation, related to the Law on Information and Consultation and to Directive 2002/14/EC of the European Parliament and the Council**

The questionnaires were developed for the purposes of Project **VS/2012/003/0305** **”Informed and Experienced for Sustainable Agriculture” – enhancing the capacity of the social partners in the sector of Agriculture for active participation in working life for sustainable agriculture**” and the aim is to gather up-to-date empirical information about the understanding of the Bulgarian social partners from the sector of agriculture as regards the fundamental right to information and consultation, as well as their attitude towards it and possibilities to use it in modern industrial relations. The questionnaires were provided to ten managers (representatives of employers) from the sector of agriculture in Bulgaria and to 10 representatives of trade unions from the structure of the Federation of Independent Trade Unions in Agriculture – all of them active participants in the social dialogue at sector level. The questionnaires and the topics in them were discussed during the national workshop on enhancing the capacity for informing and consulting the social partners in the sector, held in Sofia on 1-2 November 2012. As a result, 4 employers and 8 trade unions’ representatives (trade unions’ chairmen), one farmer and two representatives of agricultural cooperatives returned the questionnaires completed for analysis. The allocation of the respondents in terms of number of men and women was 5 men : 10 women.

The analysis of the results from the questionnaires is presented below as follows:

**To the main and first question:** *Are you familiar with the legislation that establishes the common system of information and consultation (Directive 2002/14/EC)*, the respondents answered in the affirmative, but in differing degrees. The main conclusion from this is that the changes made to the employment legislation in 2006 give the legal background for the development of the system in Bulgaria, but it is used to varying degrees and insufficiently by the participants in it, especially by the employees. The above mentioned legislative amendments came into force on 01.07.2006 and a new Section II “General Rules for Information and Consultation” was introduced to Chapter Six “Major Obligations of the Parties to the Employment Relationship”, through which the Directive 2002/14/EC for establishing a general framework for informing and consulting employees in the European Community was transposed into the national law. The incorporation of the amendments in the Labour Code established the Bulgarian model for informing and consulting the employees and the procedure for their implementation. The law regulates the cases in which obligation occurs for the employer to carry out procedures for information and consultation, the deadlines for such procedures, the order, the way of determining the representatives of the workers/employees, with whom the procedures will be conducted and respectively, the rights and obligations of the employees in those procedures.

A more detailed analysis reveals that: All interviewed employers and trade unions' representatives from the Agricultural Academy and Irrigation Systems (two branch organizations from the sector of agriculture, well structured in the social dialogue, both as representatives and as active participants in it) note that they are familiar with the legislation that establishes the information and consultation processes. However, the situation with farmers and agricultural cooperatives is different. The representatives of the farmers and some representatives of the agricultural cooperatives, although being familiar with and abiding by the requirements of the employment legislation, are barely aware of the contents of the texts which regulate the information and consultation processes. One of the reasons for that is the lack of established trade union organization in the newly-formed agricultural production structures and the lack of organized representatives of the workers. This survey carried out in the sector of agriculture in Bulgaria once again shows that the information and consultation processes (related to the above mentioned European Directive) are the least developed in areas with no trade union organizations. There is a need for a proactive campaign to promote the mechanisms for informing and consulting and active involvement of employees in the working life of the sector.

The national workshop of social partners in the sector, held in November (under the current European project) and the follow-up information meetings held in various parts of the country partially familiarized the participants - representatives of the workers and employees, employers from the agricultural cooperatives and farmers - with the new normative provisions of the information and consultation processes and stimulated interest in the development of those processes at the enterprise level. As a result of the partnership and the contact established between the structures of the two partnership organizations under the project, raising awareness on major labour rights of the employees working in them will continue, but the conclusion is that a purposeful campaign is needed to promote and actively use the possibilities for exercising of employees' rights in working life.

The questionnaires give prominence to ongoing **informative and training activities** - introduction to law, trainings, providing practical guidance, capacity building and development and concluding of model agreements between the parties.

Interviewed trade unions' representatives from the branches Irrigation Systems, Agricultural Academy and members of leading trade union bodies in their responses highlighted the trainings that the Federation of Independent Trade Unions in Agriculture organized for activists and their structures in 2007 and 2008, in relation to the above mentioned changes in the Labour Code in the section on information and consultation. In parallel with this, in various parts of the country, the regional structures of the Confederation of Independent Trade Unions, whose founding member is the Federation of Independent Trade Unions in Agriculture have provided and continue to provide training to trade unions' activists from the sector on the topics of information and consultation. This promotes awareness and enhances knowledge, forms attitudes, both in management and in employees, to solve specific problems, especially in times of crisis.

The norms that provide for employers' general obligation to information and consultation are included in art. 130, para 1-3 of the Labour Code.

Paragraph 1, art. 130 provides for the representatives to whom the employer shall be obligated to provide information and with whom the employers have to conduct preliminary consultations. Primarily these are the representatives of trade union organizations and the representatives of workers and employees under art. 7, para 2 and art. 7a of the Labour Code, if there are such elected by the General Meeting of the workers and employees in the enterprise. By virtue of art. 7a, para 2, the General Meeting may delegate the functions of the representatives under art. 7a to representatives designated by the leadership of the trade union organisations. The representatives of the trade union organizations and the representatives under art. 7, para 2 (if there are any) shall be informed and consulted on the important issues of management and activities of the enterprise, and the representatives under art. 7a – on the current issues of economic position, temporary change in activity and change in the organization of labour in the enterprise.

The practice so far has shown that in the area of agriculture, the information and consultation on the so called “current issues” has been conducted with **representatives of trade union organisations** because of lack of elected representatives under art. 7a (representatives of the workers) in all enterprises employing at least 50 workers and because of delegation of their powers to the trade unions by virtue of the General Meeting of the workers. In those and other cases – in respect of the important issues, the information and consultation procedure is conducted under the terms and conditions negotiated in the collective agreement. It is a fact that the system for informing and consulting works well where there is high or medium degree of organisation of workers and employees into trade unions and where a culture for social dialogue exists. This particularly applies to the sector of agriculture which is characterized by a large number of small and medium sized economic units, which are not yet sufficiently accessible for self-organisation of the workers in them, and there is a limitation in the exercising of their collective labour rights and civil rights. In support of that we will give an example from an extensive campaign of the Confederation of the Independent Trade Unions in Bulgaria, (CITUB), called “Be info!”. The campaign was carried out in the period October - December 2012. Its aim was to reach 20,000 workers from 200 enterprises, each employing at least 50 workers, from various economic sectors in the country, in order to promote the workers’ right to information and consultation. From all 124 enterprises, which were visited during a period of approximately one month, there was no enterprise from the sector of agriculture. This more seriously identifies the necessity of a purposeful campaign in the agricultural sector, as well as legislative changes, which will have a positive influence and encourage the exercising of the right to information and consultation in the sector, as a fundamental civil right.

In respect of, who takes **the initiative for conducting the General Meeting for election of the representatives for information and consultation**: all interviewed respondents unanimously pointed out that it is in the hands of trade union organisations. The nomination of the candidates for representatives is also conducted by trade union organizations. There were cases, although rare, of some employer interference in the election procedures. The elected representatives in several of the working collectives from Irrigation Systems and the Agricultural Academy are designated by the leadership of the trade union organisation and in the remaining larger part, the General Meeting delegated the information and consultation functions to the trade unions’ leaderships.

The number of representatives of the workers and employees (where such representatives are elected) is determined by the General Meeting and is compliant with the requirements of the law and the average number of employees. Trainings with the elected representatives took place in some regions. The majority of the participants in the survey answered that special trainings for the elected representatives from their economic structure have not been conducted.

It should be noted that the amendments adopted in the national employment legislation, set out as general rules for the obligation of the employer to inform and consult the workers and employees, gave impetus to collective bargaining and enhanced the content of collective agreements. That is because according to art. 130, para 1 the employer **shall be obligated to provide the information required by the law to the trade union organizations** and to consult them, not only to the representatives of the workers elected under art. 7 and art. 7a (these are the representatives for informing and consulting the workers). In addition, the text of art. 130, para 5 provides for **a legal possibility to negotiate additional forms of information and consultation. This legal possibility is provided to the trade union organizations and representatives under art. 7a** (here the representatives of the workers under art. 7 are excluded), namely: *“...By a collective agreement or by an agreement, the employer and the factory and office workers’ representative under art. 7a may also agree...’* The Bulgarian employment legislation is grounded on the principle that only trade union organizations are entitled to sign collective agreements. Certainly such additional practical measures for information and consultation may also be negotiated and agreed between the representative organizations of the workers and employers. Such agreement is also envisaged to be concluded between the Bulgarian social partners in the sector who are also partners in this project.

The practical experience in collective bargaining which the Federation of Independent Trade Unions in Agriculture, FITUA, gained over the years is shown as a positive practice in negotiated special clauses in branch collective agreements, set out in accordance with the above mentioned norm.

The obligation of the employer to inform and consult the representatives of trade union organizations is also envisaged for information and consultation in cases of collective dismissal, change of employer, consultations before extension of working time, preliminary agreement before the employer establishes part-time working time, conduct of consultation before establishing open-ended working hours for certain positions in the enterprise, provision of information about vacant full-time and part-time jobs and positions and so on. The above rules are specifically expressed and applied in each collective agreement that we sign with Irrigation Systems, the Agricultural Academy, the Bulgarian Food Safety Agency, the agricultural cooperatives and others. The branch of agriculture is going through constant restructuring as are the structural units that service it, such as the systems of Agricultural Academy, Irrigation systems, Food Safety Agency, the Hail Suppression Agency and others, which are characterized with high degree of organization of the workers and effective social dialogue, and it has become a practice to conclude agreements between trade unions and employers in the event of changes in the legal/organizational form, mergers, takeovers, assigning or transferring of activity from one enterprise to another, re-organisation – changes which significantly influence employment and social security relations of the workers and employees from the enterprise. There are separate agreements signed in

addition to the collective agreements. They contain clauses for prevention of the social consequences that may result from the implementation of the changes in the production structure described above. The effectiveness of application of this system is highly appreciated by workers, respectively by trade unions and by employers as well, because it uses both parties in the relationship, employee and employer, supports management decisions as necessary, but most of all it protects employees.

Workers and employees are entitled to timely, true and understandable information on the economic and financial position of the employer, relevant to their labour rights and obligations. This legal norm, given well conducted dialogue and negotiation, results in more favourable texts upon determining of labour remuneration, the deadlines and amount of compensations upon termination of employment relations, the number and amount of compensations upon completing social insurance length of service and reaching pension age, annual leave and other social entitlements. The economic and financial position of the enterprise, structure and expected development of employment, anticipated steps, future management plans, especially when there is a threat to employment, are among the most frequent issues for consultation with the representatives of the workers, for which there are detailed provisions set out in the collective agreement. Our analysis and experience show that the texts set out in the collective agreements ensure greater security, durability and control, in accordance with the employment legislation, in comparison with the agreements signed through representatives under art. 7a. This of course does not make such agreements less significant, especially taking into account the fact that they give additional strength and weight to the participation of the employees in the working life and develop industrial democracy.

Informing and consulting within the branch of agriculture in the majority of the cases is conducted by following the principles of the productive social dialogue, more specifically in the spirit of cooperation and consideration of the interests of the two parties, both the interests of the enterprise and the workers.

All respondents, no matter whether an information and consultation system is integrated and functional, or they have just a theoretical idea or no idea about it, express the opinion that the government has to undertake serious measures to promote the exercising of the workers' right to be informed, taking into account that this is a fundamental right of all European workers and employees. Suggestions were made that there be actual sanctions to employers who do not provide the required information. This corresponds with the intention of the trade unions and the social partners in Bulgaria to set up a national system for registration, monitoring and analysis of the information and consultation processes. This system is to be coordinated by the Ministry of Labour and also conditions should be created to ensure control over adherence to those rights.

A specific and important suggestion made by all respondents to the survey is for amendment to the text under art. 7a of the Labour Code, related to determining **the number of employed workers in the enterprise** for conducting of informing and consulting. This suggestion is directly related to the specifics of the structures in the sector of agriculture, particularly taking into account the small number of employed workers in agricultural production structures.

As a result of the analysis of the answers to the questionnaires completed by representatives of trade union activists, employers, workers and farmers, we consider that we have a partial but representative sample on the state of information and consultation processes in the sector of agriculture in Bulgaria and the responses reflect the attitudes and behavior of the social partners in the sector – employers and trade unions – in respect of this process. This information was built upon and further enhanced as a result of the national workshop and subsequent meetings with the partners.

There is a clearly outlined trend of increasing realization that there is need for communication and dialogue, for development and application of the information and consultation processes and systems in enterprises from the sector of agriculture and for knowledge and skills for the workers to exercise those rights. All this indicates that the activities under the project are timely and useful, they are in synchrony with analogical projects and campaigns implemented by social partners at national level and will contribute towards the achievement of the objective to enhance the knowledge, awareness and involvement of the employees in the working life. Progress to date has highlighted the necessity of organising subsequent working meetings in order to provide information and training on the topic and to ensure detailed explanation of the procedures, rights and possibilities related to the establishment and integration of information and consultation system in the sector of agriculture.