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and workers and employees within the
enterprise in the European
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INTRODUCTION

The aim of this monograph is to show, how the situation and role of Trade Unions and workers and employees is formed within the enterprise in the European socialist COMECON countries. The monograph relies on three fundamental sources, at outlining the general survey. These are the Labour Codes of the affected countries, as well as the decisions of comprehensive character of the State or Trade Union, which relate in a country to functioning and rights of the Trade Unions and, finally, the rules that, in the single countries, arrange the participation of workers and employees in the management of the enterprise, partly in the framework of the rules of law about the enterprise, partly independently of this. The monograph does generally not comprise the representation of the implementing provisions that are mostly connected with sectorial characteristics or the rules, which — in the course of arranging a special question (e.g. making easier the kitchen work of women working out of doors, or assisting the home-building of workers and employees) — affect the role of Trade Unions. Dealing with these would, namely, have resulted in such an extremely ramifying, complicated material of so large quantity that would have rendered more difficult a clear survey. This seemed to be so much the more omissible because these dispositions generally mean the concretization of principles, fundamental rules that are determined in Codes.

The rules of Labour Codes arrange the rights of Trade Unions with general character, that is to say, they do this not only related to the enterprisal level. But the sphere outside of the enterprise is left by the monograph out of consideration. It omits, similarly, the dispositions of the parts of the decisions concerning the activity of Trade Unions, as far as they relate to the activity of Trade Unions outside of the enterprise.

The Codes generally arrange separately the rights of Trade Unions, connected with creating, implementing and supervising the rules relating to the labour relations. They make separately arrangements for the co-operation of Trade Unions in questions connected with the production, management of the enterprise. And they take measures, separately from both of these, for role and rights of the workers' collective of the enterprise. With regard to this, two methods presened themselves to make known the situation, role of the Trade Union and workers' collective within the enterprise. One of these was if we separately deal with the rules concerning the rights, role of Trade

Unions and, within this, separately with the activity of safeguarding the workers' interests, resp. the participation in the questions of production, management and, separated from these, the rules relating to the co-operation of workers and employees in problems of production, management. The other is if we group rights on the basis of their functions, dealing within a single function with the rights due to the Trade Union, resp. to workers and employees. Taking into consideration that the rules relating to the rights of the Trade Union and of the workers' collective are often interwoven with one another, the second solution seemed to be more advisable. This gives a uniform comprehensive picture concerning each function. This has the advantage, as well, that the superfluous parallels, contradictions become more obvious, the inadequacies of regulation can be recognized more clearly. Corresponding to this standpoint, I am dealing with the rules in the following system:

1. general principles and dispositions relating to the rights, role of the Trade Union, resp. workers' collective;
2. participation of the Trade Union, resp. workers' collective in determining the order of activity of the enterprise, its task and sphere of activity and in the implementation of the decisions relating to this;
3. the right of the Trade Union and workers' collective to supervision;
4. guarantees of rights of the Trade Union and workers collective.

II. GENERAL PRINCIPLES RELATING TO THE RIGHTS AND SITUATION OF TRADE UNIONS AND WORKERS' COLLECTIVE

1. *Legal situation*

The constitutions of the socialist countries generally refer to the position, rights of Trade Unions and workers' collective in the political and social life. The implementation, legal arrangement of these provisions in connection with the labour relations, the activity of the enterprise are first of all the task of the Labour Code. The Labour Code of every socialist country deals with these questions.

Concerning Trade Unions, the introductory part of the labour-law principles of the Soviet Union establishes that the labour-law protection of citizens is provided, apart from the political and other social organs, by Trade Unions. And in art 2, among the fundamental rights of workers and employees, the participation in the guidance of production is enumerated. And it is fixed in art. 95 that the right of forming a group in Trade Unions is due to workers and employees. These function according to statutes, accepted by them. Art. 2 of the Bulgarian Labour Code declares the right of workers and employees to create Trade Unions. According to art. 6, sec. 1 of the Labour Code of the German Democratic Republic, workers and employees are entitled to unite in Trade Unions and to display activity in that. According to art. 11 of the Hungarian Code, it is a right of Trade Unions — of the organs of workers and employees for representation and safeguarding workers' interests — to raise the material, social and cultural level of workers and employees, to safeguard and assert their rights and interests affecting their living and working conditions, resp. to display a regular activity for this, to draw the workers and employees into this and inform them on the questions, as well as to represent them before the management of the employer and the political organs. According to art. 19 of the Polish Labour Code, workers and employees are entitled to unite in Trade Unions. Art. 164 of the Rumanian Labour Code establishes that Trade Unions are occupational organizations, created on the basis of the right to unite, due to citizens, and they function on the basis of their own statutes. Art. X. of the introductory part of the Czechoslovak Labour Code, containing fundamental principles, establishes that the participation of the Revolutionary Trade Union Movement, in the labour relations regulated by the Code, makes an undivided part of connections. Beyond the establishments cited above, the Codes determine in detail the rights due to Trade Unions. With these, we shall deal later.

The right of workers and employees to take part in management the

enterprise is declared — similarly to above mentioned — as an important principle by the Code of Labour legislations of the socialist countries. Thus, for instance, art. 2 of the labour legislation of the Soviet Union enumerates the participation in directing the production among the fundamental rights of workers and employees. Art. 2 of the Russian Code of Labour legislation provides in a similar way, as well. The Czechoslovak Code of Labour establishes in art. V of its introductory part, which contains the fundamental principles, that the workers and employees are entitled to participate in developing, guiding and supervising the activity of the socialist organization. According to art. 20, par. 1 of the Polish Code of Labour, the workers of a factory — through the organs of the factory Trade Union and the workers' self-government — actively participate in the life of the enterprise. Art. 1 of the Code of Labour of the German Democratic Republic enumerates among the fundamental rights of workers and employees the right of common deciding and guidance. According to Art. 8 of the Rumanian Code of Labour, each of the members of the working collective takes part in leading the unit. According to Art. 10/A of the Hungarian Code of Labour, the manager, in the course of performing his/her duties, relies on the community of the workers and employees of the enterprise. The right of consultation and recommendation and in certain cases the right of attitude or decision, as well as of supervising the implementation, is due to the community of workers and employees in the solution of the important questions, which affect the interests of the enterprisal management and community.

2. General principles

The participation of workers and employees in the management of the enterprise, their right to do this, rest upon a double basic principle. One of these is: safeguarding of workers' interests, the other: the workshop democracy.

The safeguarding of the interests of those being in employment relations took shape on the basis of the antagonistic contradiction of the bourgeois society and became established by the creation of Trade Unions, in the course of the 19th century. But it has remained necessary — under changed conditions and with a correspondingly changed character — in the course of the socialist development, as well. The cause of this is that — though in the countries building up socialism the interests of the individual and society fundamentally coincide — yet several contradictions, conflict situations of non-antagonistic character occur. This has more than one source: It must be taken into account that the interests of the individual, the different groups, enterprises, organizations and the whole society may be provisional in details divergent. For this reason there may arise a difference in opinions even among those co-operation for common aims, in respect of the means, methods, with which the common aim can be achieved the most easily and in respect of what possibilities offer the optimum solution. It is enough to refer here, for instance, to some debates, affecting in the last analysis employment relations, too. These emerge in the course of deciding in connection with the use of national income, both in the field of economics and in that of the

practical economic policy, in respect of the basis serving investment and consumption, resp., within the latter, of determining the proportion of amounts to be devoted to wages and socio-political aims; or in course of deciding, what should be the proportion of fix and moving wages during the practical realization of the remuneration according to the quantity and quality of the work accomplished. But some debates occur not only in the affairs affecting the whole of society, and not only in case of the two extreme poles: the case of the individual and society, but even within this, at the level of the different organizations, groups. Thus, e.g., within the enterprise, too, between some of its parts. We also have to reckon with that the guider of production, striving not rarely — as if suffering from professional blindness — to fulfil the aims of production at any price, do not take enough care in improving the situation of workers and employees. In addition, we can still meet today — as a result of some backwardness in consciousness — arbitrary actions, bureaucratic solutions, the disregard of the interests of others, as well as more than once well the intentional neglect of duties. These controversies are not irreconcilable, because the fundamental social relations are characterized by co-operation, the identity of interests. On the ground of this, the way of solving the contradiction can always be found. In this regard, we should set out from that the interest is always to be preferred, which proves to be more acute, more important in the concrete case. This solution of controversies always demands conciliation, discussion and, following these, agreement in the right solution. In the interest of this, however, the safeguarding of interests is necessary. The effective realization of the safeguarding of interests requires that the workers and employees, as well as the Trade Union, performing the activity of protecting the interests, can take part in preparing and making all decisions, which effect their working relation, working conditions, the formation of their material and social situation.

The increased developing of socialist democracy, ultimately the formation of the social self-administration, is one of the regularities of the socialist development. This requires that — depending from the concrete level of the social development, particularly from its organization and level of consciousness — the maximum participation of citizen in the guidance of the state and social life should always be ensured at every level. It is obvious that this is necessary. In the socialist society the results of production are entirely consumed in favour of every member of the society. The results of the social production are, however, created by the work of individuals. In this way, there exists a mutual connection both between the individual and society and between the individuals doing the work. The work of the individual contributes to the development of the result of the whole society. At the same time, the development, results of society form the basis of the formation of the position of the individual, of the rise in his or her living standard. This mutual connection requires a co-operation between the working individuals and society. In the framework of this co-operation the individual may set up a claim to take part in exercising power, to intervene in organizing the work of society and State, in the manner of utilizing the means of production and of distributing goods. Society may, at the same time, claim, beyond the personal work, the above-mentioned co-operation in the common affairs of society and State, it has, on its own part, to organize and help, too, its formation, the development of the co-operation between the members of society.

The workshop democracy, within the framework of which workers and employees participate in the management of the enterprise, with which they are in work relations, means the realization of the socialist democracy. The legal reflection of this is shown by the standpoint of the science of the socialist Labour Law, according to which the right of the worker and employer to participate in the management of the enterprise forms one of the elements of the socialist labour relations.¹

This two basic principles of the right of workers concerning the participation in the management of the enterprise are in interaction with each other. The framework of the workshop democracy created a basis for extending the activity, safeguarding the workers' interests. At the same time, however, the activity of safeguarding the workers' interests has considerably helped, and is helping, the development of the workshop democracy, as well.

From among the two basic principles of the right of workers and employees to participate, in chronological order at first the safeguarding of interests exerted its effect on the legal regulation or, in a more exact formulation, since the formation of the socialist States, it has been one of the essential elements of the regulation of the Labour Law. Certain elements of the workshop democracy similarly appeared already in the initial period but the preconditions, which are necessary to their full unfolding were, and are, only created at a higher level of the socialist development. Thus, the preconditions of organization like for instance a system of the economic guidance, which enables the local decisions of enterprises or the mental factors like for instance the general and professional cultural level, the interestedness of workers and employees that are necessary to the substantial participation in the decisions. The effect of the temporal differences manifests itself therein that in the legal regulation sometimes some duality, parallelism appears. The cause of this is partly that the safeguarding of interests — thus primarily the activity of Trade Unions — is not limited on the affairs within the framework of the enterprise but it is of national character and extends to some problems, as well, which do not occur at the level of the enterprise. In our days, however, in the course of the legal regulation, the double basic principle presents itself more and more intertwined, and even, in certain cases, inseparably.

¹ Weltner A.—Nagy L.: A magyar munkajog (Hungarian Labour Law) I. (Tanönyvkiadó, Budapest, 1973.) p. 105.; Nagy L. Hungary (Encyclopaedia of labour law and industrial relations, Kluwer, The Netherlands, 1978.)

III. POSITION OF THE TRADE UNION, RESP. OF THE WORKERS' COLLECTIVE WITHIN THE ENTERPRISE

At the investigation into the position of the Trade Union, resp. of the workers' collective within the enterprise, we have to pay attention primarily to two questions. One of these refers to, what the position of the Trade Union, resp. of the workers' collective is in the management of the enterprise. The other refers to, what the relation is between the workers' collective and the Trade Union.

1. Ways and means of the connections between the management of the enterprise and the Trade Union, resp. the workers' collective

In the course of investigating into the connection between the management of the enterprise and the Trade Union, resp. the workers' collective, we have first of all to give answer to, whether the latter participate in exercising the function of leading, with other words, whether they are built in the organization of the enterprise or are out of guidance, being partners of it, and in this quality they may exert certain rights in order to influence the decisions of management. In this respect, we have found two fundamental solutions in the socialist countries.

According to one of these, within the enterprise one-man management is fundamental, the right of decision is generally due to the manager. This solution prevails in the Soviet Union, the German Democratic Republic, Hungary and Czechoslovakia. In case of this solution, the Trade Union, the workers and employees, resp. their various bodies do not participate in the guiding organization of the enterprise but are partners of guidance. They have no immediate rights of management, guidance or only within a very narrow circle. The participation in the guidance, decisions of the enterprise is realized in the way that the enterprise can only make an essential decision with their co-operation, they should get a thorough information on the implementation of these and generally on the activity of the enterprise and may supervise all these.¹ The scope and way of the co-operation in making the decisions (e.g., opinion, agreement, joint decision) are formed according to countries and, within this, they take shape differently, depending upon the character of cases, upon traditions, etc.

The other solution is built on the joint application of the individual and

¹ Art. 32. of the Labour Code of the German Democratic Republic (abr: GLC); art. 10/A. of the Hungarian Labour Code (abr.: HLC).

collective guidance.² The enterprise is though headed by a manager but, beside him, built in the management of the enterprise, the Trade Union, resp. the workers' collective also take part. This solution prevails in Bulgaria,³ Poland,⁴ and Rumania.⁵ In respect of details, however, these differ from one another. In case of this solution, the role of the manager of the enterprise is primarily to prepare and implement the corporative decisions.⁶

It is common in case of both solutions that the selection and appointment of the manager falls within the competence of the organ charged with the supervision of the enterprise and this exercises opposite to him the rights of employer, as well. This is limited in certain countries in so far that it should consult the Trade Union, resp. the workers' collective even before the creation and termination of the labour relation of the manager and possibly before other decisions in essential cases concerning the manager, as well. This is the provision of the Soviet rule concerning the sphere of activity of Trade Unions.⁷ This is completed by art. 230 of the Russian Labour Code with that the opinion of the Trade-Union Committee is necessary to the appointment of every employee of the enterprise in leading position. According to the Bulgarian law about the Trade Union, before appointing the economic leaders, the Trade Union is to be consulted.⁸ The Hungarian law about the state-owned enterprise contains similar provisions.⁹

In Poland, however, the situation is different. The appointment of the manager is due — in the case of economically essential enterprises determined by the Council of Ministers with consent of the Trade — Union — to the floater organ, in the case of other enterprises to the workers' council of the enterprise. In both cases the other party (the floater organ, resp. the workers' council) may set up a contrary opinion — with motivation — inside of two weeks. If the contrary opinion would be left out of consideration, the announcer may appeal to the court.¹⁰

The difference between the two kinds of solution — namely that the Trade Union and the workers and employees collective are partners in leading or elements of the structure of the enterprise — is not of decisive importance from the point of view of the content. The fullest influence of workers and employees on guiding the enterprise and on the essential decisions can be ensured in both cases. The difference — as seen from legal side — is primarily of formal character. In case of the first solution, the standpoints of the enterprise and of the Trade Union, resp. the workers and employees collective are separated from each other. There are, therefore, two standpoints which, if

² Bulgarian Statut of the organisation of the economic activity (abr.: Statut) art. 100., art. 8—9 of the Rumanian Labour Code (abr.: RLC).

³ See Chap. IV.

⁴ Polish act of 25. September 1981. on the State enterprises (abr.: Act 1981.).

⁵ Act No 5. of 1978. on the organization and managing of the state socialist unities (abr.: 1978:5).

⁶ Art. 39. of 1978:5. art. 37. of Act of 25. September 1981 on the workers' self — management of the State enterprises (abr.: Self — management).

⁷ Decision of 29. september 1971. of the Supreme Council of the USSR on the rights of the Trade Unions (abr.: SU TR. U.).

⁸ Point 8. of the decree No 55 of 9. mars 1958. of the Bulgarian Council of Ministers and the National Council of Trade Unions on the role and activity of the Trade Unions (abr.: 55/1958.).

⁹ Art. 15. of the Act No VI of 1977 on the state enterprises (abr.: 1977. VI.).

¹⁰ Art. 34. of Act 1981.

they differ, should as a rule be harmonized. In case of the second solution, there are not two separate standpoints but only one: the decision of a corporative enterprisal organ, which is entitled to decide. The second solution has, nevertheless, such an advantage that it ensures a potentially higher possibility for the participation of workers' collective, resp. of the Trade Union. It is probable that the future development will go forward in this direction. This is shown also by that even in case of the countries, choosing the first solution, there are certain cases in which the Trade Union, resp. the workers' collective has the right of deciding in some questions. (For instance, according to the Hungarian rules, the enterprisal organ of the Trade Union decides on using the socio-cultural fund,¹¹ or the workers' collective is due to decide in a few determined questions determined the structural and functional statutes of the enterprise, thus, e.g., in awarding certain enterprisal rewarding titles.)¹²

The position of the Trade Union is very interesting. The enterprisal organ of the Trade Union has three different roles. Partly it participates itself — through its competent functionary — in the questions of guiding the enterprise, of its management (this presents itself, in case of the first solution, at enterprises with one-man management, in expressing its opinion, possibly in the participation of non-enterprisal guiding bodies, while in case of the second solution it is realized — except Poland — partly by the membership in certain guiding bodies or by the participation in the sessions in an advisory capacity). Partly it cooperates — except Poland — in the creation of the guiding bodies functioning with the participation of the workers' collective and helps the activity of those. And finally, in certain questions — in conformity with its part in safeguarding the workers' interests — it acts as a partner of the guiding organs (of the manager and the collective bodies).

2. The enterprises organized on the basis of the one-man responsible management

A) Characteristic traits of the legal regulation

a) In case of enterprises being under one-man responsible management — as mentioned above — the Trade Union, resp. the workers' collective is a partner of the manager, is not built into the organization of the enterprise. This is the situation, even if the creation of various such bodies is prescribed by the rules concerning labour relations, with which the manager should negotiate different questions affecting production and labour relations. It is, at any rate, to be noted in this connection that in this field a continuous development may be observed and we shall evidently be spectators, resp. participants of a gradual transformation.

The legal regulation shows in these countries the following characteristic traits:

— At every enterprise, there function at least one but, as a rule, more such instances of workers and employees, through which they co-operate in guiding the enterprise.

¹¹ Art 13. sec. 4 of HLC.

¹² Decision No 1018/1977. (V. 7.) of the Hungarian Council of Ministers and the National Council of Trade Unions (abr.: 1018/1977.).

— These instances are of consultative, advisory character. The management of the enterprise is not obliged by their decisions. The practice goes, however, more and more in the direction that the manager of the enterprise is obliged to give his reasons for not accepting a certain opinion, proposal.

— In the instances, all the essential questions of production, economy are discussed generally at least on two occasions. First, in the course of preparing the decision, measure; for the second time, at evaluating the result of implementation. With the exception of the deliberation of the draft of the collective agreement, the problems of expressly safeguarding the workers' interests are generally not discussed at these instances.

— The organization and setting into action of the various instances of the workers and employees are the tasks of the Trade-Union organ of the enterprise. These instances are generally considered as the organs of the Trade Union.

b) The competence of Trade Unions are very wide-ranging. The rather wide competence of the Trade Union is justified, indeed, because — owing to the narrower competence of the workers' collective which is primarily of consultative, proposing character — it is only in this way possible to ensure the due harmony between the interests of the enterprise and workers. This competence is within the sphere of safeguarding the workers' interests more effective than the competence ensured to the workers' collective because they enable not only consultations but also prescribe — in a considerable part of cases — agreement, possibly a common regulation, decision, as well, and in certain cases they even transfer the right of deciding into the competence of Trade Unions. In connection with production, management the competence of Trade Unions is generally of consultative character. This means, however, in practice more than a simple giving of an opinion. The management of the enterprise should namely make the plan or another essential decision, as a rule, by drawing in the Trade Union. This contains discussions, consultations, too, in the meantime, giving a more effective possibility to enforce the standpoint of the Trade Union.

c) The content of the regulation concerning the rights of the workers' collective, resp. Trade Unions seems to be contradictory, to some extent. The instances of the workers' collective deal primarily with questions of production, management and less with themes immediately affecting the labour relations. In case of the Trade Unions, however, these establish the point of main effort. The cause of this lies first of all in the fact that — as mentioned before — the matter in question is a situation in transformation, development. In the framework of this, there appears, from one side, in connection with the rights of Trade Unions, the established traditional arrangement; at the same time, something new presents itself, as well, beside this, originating from the development of workshop democracy.

The detailed picture of the situation is the following.

B) Role of the workers' collective

a) I have earlier already quoted the introductory parts of more than one Code where the participation in the guidance of production was enumerated among the workers' rights. In certain codes, as well as in the rules of state-

owned enterprises, there are also contained further provisions. In these, generally three subjects are arranged. These are:

- the scope and aim of the participation of workers and employees,
- the representation of the workers' collective, and finally
- the manner of participation.

b) In connection with the scope and aim of the participation of workers and employees, art. 97 of the basic principles of the Soviet labour law establishes that the workers and employees are entitled to participate in discussing and deciding the questions of developing the production, to make proposals for improving the work of institutions, organizations, as well as in social, cultural questions and in those of public utilities and amenities.

The rules of the German Democratic Republic do not contain similar comprehensive provisions about the role of the workers' collective but approach the question from the side of the management of the enterprise. The Labour Code determined, what are the manager's tasks, connected with drawing the workers and employees into the affairs of the enterprise. These can be summarized as follows:

- discussion of the plan of enterprise with workers and employees,¹³
- creation of the preconditions of the socialist emulation,¹⁴
- information of workers and employees about the situation of the enterprise, direction of the initiatives of workers and employees on the most important tasks, and discussing the best solutions with these,¹⁵
- an account about the fulfilment of the tasks, about the state of the socialist emulation as well as about the collective agreement,¹⁶
- evaluation and use of the proposals of workers and employees.¹⁷

The Hungarian Labour Code does not give a detailed enumeration, either. Art. 10/A, sec. 2 of it only establishes that the right of participation is due to the workers' collective in the essential questions of management and in those, touching the general interests of the community. The decision of the Council of Ministers and of the National Council of the Hungarian Trade Unions concerning the development of the workshop democracy¹⁸ is only referring to that the workers and employees should be informed on every essential question connected with the activity of the enterprise.

According to art. 18 of the Czechoslovak Labour Code, it is the inseparable trait of the socialist democracy and a condition of the successful activity of the organization that the workers and employees, as well as their collectives, take part in the development, guidance and supervision of the organization. It establishes that the aim of this activity of workers and employees is, first of all, to ensure rentability, technical development, to raise the productivity of work, the quality and economic efficiency of the production, to improve the qualitative fulfilment of the tasks of the organization, to increase labour safety and safeguarding of public health, to strengthen labour discipline and to raise the qualifications of workers and employees, promoting

¹³ Art. 32. of GLC.

¹⁴ Art. 35 of GLC.

¹⁵ Art. 19. sec. 1. of GLC.

¹⁶ Art. 19. sec. 2. of GLC.

¹⁷ Art. 20. sec. 2. of GLC.

¹⁸ 1018/1977.

in this way the raising of the material and cultural level of workers and employees.

c) The rules of all the four countries regard Trade Unions as the representatives of workers' collective.¹⁹ On the other hand, the Soviet rules refer to the other social organs and the organizations of people's control, as well.²⁰

d) As to the manner of taking part, there is given no taxative enumeration by the legal rules. The cause of this may have been that — taking into consideration the different character, role of the enterprises, the composition of workers and employees — a uniform central arrangement would not be practical and in certain places it would impede the unfolding of the good local initiatives, in other places however it would make exaggerated demands. It would partly contain only an exemplary direction, partly the arrangement is entrusted to Trade Unions, resp. the enterprise. Thus, according to art. 97 of the basic principles of the Soviet labour law, the workers and employees take part in guiding the production through Trade Unions and other social organizations, the organs of people's control, general meetings, production conferences, deliberations and through various forms of the spontaneous social actions of workers and employees.

The Labour Code of the German Democratic Republic remits to the competence of the Trade Union to determine, how the drawing of workers and employees into the direction takes place.²¹ The decision of the Trade-Union organs²² determines two fundamental forms of participation: the production conferences and economic meetings. The production conferences have two forms: in enterprises keeping employed not more than 100 workers and in such units of the large enterprises the „production conference”. In the enterprises and in the enterprisal units — larger than those mentioned before — a „standing production conference” is formed. Both conferences are regarded by the Labour Code as organs of the Trade Union.²³ Every worker (employee) takes part in the production conference. The standing production conference, however, is formed by deputies. These are elected — depending on the size of the enterprise — for two years. There are *ex officio* members of the conference, the guidance of the enterprise, the party, the Trade Union, the youth organization, as well as of the enterprisal organization of the technical chamber. The standing production conference elects a committee of 5—15 members from among its members. The duty of this is to prepare sessions, to organize the implementation of decisions and the supervision of implementation. The economic conferences are only arranged in large enterprises. The management of the enterprise, as well as the party, resp. the enterprisal Trade-Union committee jointly decide about their composition. Ace-workers, innovators, rationalizers, inventors of workers' brigades should particularly be invited to the conference. The members of the Trade-Union committee, those of the committee of the production conference, as well as the members of the Standing Production Conference of the whole enterprise take part in the economic conference as elected representatives of the workers and employees.

¹⁹ Art. 97. of the act of 1970. on the principles of the labour legislation of the USSR (abr.: SU principles).

²⁰ Art. 97. of SU principles.

²¹ Art. 22. sec. 1. of GLC.

²² Decision of 1959. of the National Council of the Free German Trade Unions.

²³ Art. 27. of GLC.

The Hungarian rules indicate in connection with participation only the fundamental forms and provide that — taking these into consideration — the system of the instances of workers and employees, the competence and the order of activity of these should be determined in the statute of organization and functioning of the enterprise, in concert with the enterprisal organ of the Trade Union.²⁴ As fundamental forms, the following are enumerated in the legal rule:

— the production conference organized in the small units of enterprises, as well as in small enterprises, with the immediate participation of workers and employees,

— two kinds of conferences, organized in larger units, resp. at enterprisal level, with representative character. One of these is the session of the bodies of Trade-Union stewards; the other is the conference of the leaders of the socialist brigades;

— the special conferences, organized for deliberating the special problems of women, young people, innovators and of other groups of the workers and employees.²⁵

According to the Csechoslovak Labour Code, the participation of workers and employees takes first of all place in the forms of participation, organized by the Trade-Union organs. It is emphasized by the law that, in the course of this, the data serving for the basis of the plan, and the plan-proposals, as well as the breakdown of these, are discussed, and the fulfilment of the plan and of the socialist emulation is supervised and evaluated.²⁶

C) Role of Trade Unions

The important role of Trade Unions is expressed by that a number of Labour Codes — apart from determining, in the course of regulating the single questions, the rights due to the Trade Union in the given case — contain a summary of principled character, concerning the role and rights of the Trade Unions. A comprehensive provision, like this, can be found in the Russian²⁷ Labour Code and in that of the Germain Democratic Republic.²⁸ It is to be noted that these summaries only give frameworks in principle and emphasize the considerable questions. These are amplified in several cases with detailed rules. The spheres of activity are similarly enlarged by various decisions, as well, concerning the promotion of the activity of the Trade-Union organs. In the next chapters, I shall deal in detail with the rights of Trade Unions. In this place, therefore, I only summarize the framework of these in principle. The competence of the enterprisal Trade—Union organs contains the following:

— representation of workers and employees, provision of the safeguarding of their interests,

— co-operation in creating the internal rules of the enterprise, inclusive of the conclusion of the collective agreement, as well,

²⁴ Art. 10/A. sec. 4. of HLC.

²⁵ Points 1—2. of 1018/1977.

²⁶ Art. 18. sec. 3. of the Czechoslovakian Labour Code (abr.: CLC).

²⁷ Art. 230. of the Labour Code of the Russian FSSR (abr. RusLC).

²⁸ Art. 22 of GLC.

— co-operation in elaborating the plan of the enterprise and the essential measures affecting the production,

— co-operation in determining the different enterprisal funds affecting the benefits of workers and employees and in the utilization of these,

— co-operation in taking the essential measures affecting workers and employees (e.g., notice, establishment of norms), resp. in giving benefits (e.g., placing on the pay-roll, housing),

— co-operation in forwarding the creative initiatives of workers and employees (innovation, invention, social emulation), in organizing and rewarding these,

— the organization of the social supervision of the activity of the enterprise, inclusive of ordering the management of the enterprise to render account of its work, as well,

— co-operation in deciding labour disputes.

In respect of the manner of exercising the Trade-Union rights, the Codes do not contain any principled arrangement of general character, but the measures are taken casually, at regulating the single cases. The forms of these may be:

— proposal,

— opinion,

— agreement,

— joint decision,

— Trade-Union decision, and finally

— the initiation of calling to account.

3. The situation of the workers' collective and of the Trade Union in case of applying the individual and collective guiding together

A) Role of the workers' collective

The essence of this system is that there are created within the enterprise guiding bodies, having the right to decide, formed of workers and employees, resp. functioning with the participation of the Trade Union. The essential decisions belong to the competence of these. The task of the manager is — as already mentioned above — focussed on implementation, the operative activity. In the single countries the following picture is found in respect of the organization.

In Bulgaria the rules of law make a distinction between a.) trust, syndicate, b.) economic enterprise, foreign trade organization, c.) agricultural — industrial, resp. industrial — agricultural komplex and d.) units of a—c.). In the following the economical enterprise and its unit will be treated. The management of the enterprise is formed of the following:

— manager,

— general assembly of workers and employees,

— economic council.

The management of the units is formed similarly.²⁹

In Poland the management of the enterprise is formed according to the following:

²⁹ Art. 111. of Statut.

- manager,
- workers' council of the enterprise (in the units of large enterprises: workers' council of the unit),
- general assembly of the workers and employees of the enterprise, resp. of the unit.³⁰

In Rumania, the management of the enterprise is as follows:

- the general assembly of workers and employees,
- the council of workers,
- the executive bureau of the council of workers,
- the manager, appointed by the supervisory organ.³¹

The above-enumerated bodies partly include all the workers and employees, partly they are formed by election or appointment, partly they are composed of persons, indicated by the legal rule. In the Polish enterprises all the workers and employees elect the functioning worker's council.³² The worker's council elects his presidency among his members.³³ In the Bulgarian and Rumanian enterprises, the workers' general assembly includes all the workers and employees without any election. In the large enterprises, all the workers and employees elect the assembly of the workers' representatives.³⁴ The general meeting of workers and employees of the elects the members of the Bulgarian economic units of and the enterprisal economic council elect the member of the executive committee.³⁵ The members of the workers' council in the Rumanian enterprises are partly appointed by the supervisory organ from among the persons proposed by the general assembly, partly they are elected by the general assembly. The workers' council elects the members of the executive bureau.³⁷

The elected bodies may also have some members designated by a legal rule. Thus the members of the workers' council of the Rumanian enterprises — among others — the secretary of the party organization of the enterprise, the manager of the enterprise, the president of the Trade-Union committee,³⁸ — as well as the expert committees, functioning under the guidance of the workers' council (e.g., the committees of the productivity of work, of the scientific production, and of the organization of work).

The Bulgarian enterprisal economic council is formed only of some persons determined by a legal rule the manager of the enterprise and his (her) deputies, the leaders of the plant units and the presidents of the Trade-Union committees of these, the heads of the financial and the legal section, the representative of Hve Central council of the Trade-Union.³⁹

The competence of the now enumerated bodies comprehends the whole activity of the enterprise, resp. of the unit. Thus, particularly the creation of the organization and inner rules, planning, developing, the questions, connected with the organization of work, the creation of the satisfying labour

³⁰ Art. 31. of Act 1981., art. 2. of Self-management.

³¹ Art. 33., 36. and 60. of 1978:5.

³² Art. 13. — 20. of Self-management.

³³ Art. 21. of Self-management.

³⁴ Art. 120. of Statut, art 61. sec. 2. of 1978:5.

³⁵ Art. 121. of Statut.

³⁶ Art. 33. of 1978:5.

³⁷ Art. 36. of 1978:5.

³⁸ Art. 33. of 1978:5.

³⁹ Art. 116. of Statut.

relations, and answering the social and cultural demands of workers and employees.⁴⁰ In the course of discussing the details, shall still return to the questions falling within the competence of the collective bodies.

B) Role of the Trade Union

I have already earlier mentioned that Trade Unions have a triple position in the enterprises discussed now. This is shown well by those outlined above. It is to be mentioned as the first role of the Trade Union that it participates in certain enterprisal leading bodies. In this case, we find two kinds of solutions. One of these is when the secretary or representative of the Trade Union is a member of the body on the basis of a legal rule. This is the situation, for instance, in case of the Bulgarian⁴¹ economic council, the Rumanian workers' council.⁴² The other of these is when the representative of the Trade Union is no member of the body but it may take part in the sessions of this. This is the situation, for instance, in case of the Bulgarian economic committee,²³ as well as at the Rumanian enterprises in case of the executive bureau of the workers' council.⁴⁴ The second role of the Trade Union is to prepare, organize, convoke the electoral meetings of workers and employees and the general assembly. We can find this case in Rumania and in Bulgaria.⁴⁵ The third role of the Trade Union is of different character. In certain cases it appears as a partner of management. Thus, for instance, according to the Bulgarian rules, the economic committee decides in certain cases (e.g. the readjustment of salary categories, division of the socio-cultural fund) together with the Trade-Union committee,⁴⁶ or the general assembly of workers and employees discusses the single questions on the basis or the proposal of the economic committee and Trade-Union committee.⁴⁷ A similar situation is found at the Rumanian enterprises, as well, where — among others — the workers' council elaborates together with the Trade Union the collective agreement or allocates the flats belonging to the dwelling fund.⁴⁸

4. Conclusions

1. It follows from the above-mentioned facts that — as it is reflected in the present-day regulation — within the socialist enterprise workers and employees, resp. the workers' collective, as well as the Trade Union present themselves in a double role.

The workers are, seen from one side, employees, doing their work within the scope of their activity, on the bases of the contract of employment, according to the dispositions of the enterprise, and participate therefore in the remuneration and other benefits due to them for it. And, on the other hand, they participate on the basis of their employment relations in guiding the

⁴⁰ Art. 117—123. of Statut; Art. 17. and 28., of Act 1981., art. 10. and 24. of Self-management; art. 35., 37. and 62. of 1978:5.

⁴¹ Art. 116. of Statut.

⁴² Art. 33. of 1978:5.

⁴³ Art. 121. of Statut.

⁴⁴ Art. 36. of 1978:5.

⁴⁵ See point A.).

⁴⁶ Art. 120. and 123. of Statut.

⁴⁷ Art. 120. of Statut.

⁴⁸ Art. 35. of 1978:5.

enterprise, are participants of the ownership-rights, due to the enterprise. And the workers' collective, accordingly, appears, from the one side, in the role of safeguarding the workers' interests (e.g., at concluding the collective agreement, as its subject), partly — in certain cases — it appears as a carrier of the right of workers and employees to participate in guiding the enterprise.

The activity of the enterprisal organ of the Trade Union also shows two main directions. And even within these, it shows more than one variety. One of the main directions is the participation of the Trade-Union organ in guiding the enterprise. Within the framework of this, there are possible even three sorts of role. It itself can, namely, take part in the guiding body of the enterprise through its nominated representatives. (Thus, e.g., in Bulgaria it is a member of the enterprisal council,⁴⁹ in Rumania of the workers' council.)⁵⁰ It cooperates, similarly in its own name, as the partner of management in guiding, in making the decisions. (Thus, for instance, according to the Hungarian law, in making the plan of the enterprise or some inner regulations.)⁵¹ It proceeds, as the representative of the workers' collective in certain cases, where it co-operates in guidance as the partner of management. (This is the situation, for instance, in Hungary⁵²) Finally, it co-operates in creating, calling together the guiding bodies, formed with the participation of workers and employees, helping the activity of these. This is, for instance, the situation in connection with the functioning of the Bulgarian⁵³ and Rumanian⁵⁴ enterprisal managing bodies. The other main direction of the function of Trade Unions is the safeguarding of workers' interests. In this sphere of action, it appears as a partner of management — both of the manager and the collective bodies. This may also occur in its own name (e.g. in connection with determining the plan of work in the enterprise⁵⁵ or with disposing a concrete measure — notice, overwork.⁵⁶ But it may also occur in the representation of workers collective (e.g. in connection with concluding the enterprisal collective agreement.⁵⁷).

2. The participation of workers and employees in guiding the enterprise is a guarantee of that in the course of the decisions of the enterprise the interests of workers and employees will be taken into consideration. At any rate, the legal regulation ensures — expressly with the character of safeguarding the workers' interests — further possibilities primarily to Trade Unions but in certain cases to workers and employees themselves, to take part in the decisions of the enterprise and in supervising the implementation of them. This regulation may be traced back to more than one cause. Partly, there may occur, even in the guiding bodies formed by workers and employees, such a professional blindness that over-emphasizes the interests of production, management, damaging with this legal interests of workers and employees. Partly, some controversies, disproportionatenesses can present themselves between certain units, groups. It is therefore justified to create such a control

⁴⁹ Art. 116. of Statut.

⁵⁰ Art. 33. of 1978:5.

⁵¹ Art. 13. of HLC., Act No VII. of 1972.

⁵² 1018/1977.

⁵³ 55/1958., art. 120. of Statut.

⁵⁴ Art. 64—65. of 1978:5.

⁵⁵ See Chap. IV.

⁵⁶ See Chap. VI.

⁵⁷ See Chap. IV.

over this, which investigates first of all from the side of the interests of workers and employees into the effect of certain decisions, measures, the correctness or incorrectness of these. For the Trade Union, which is not only the representative of workers and employees of the enterprise but, at the same time, the unit of the national organization, as well, it is also possible to validate, in the course of this, also the experiences, practice, obtained at other enterprises. Finally, there may also occur certain superfluous rules, no more justifiable today. These take their origin first of all from that the regulation of safeguarding the workers' interests — as mentioned above — presented itself temporally earlier and, because of traditional causes or because in the timetable of legislation the turn of terminating the parallelism did not come, as yet, possibly as a result of different socio-political circumstances, and even they were possibly reproduced.

3. It is a characteristic trait of the rules of a character of expressly safeguarding the workers' interests that the co-operation in deciding — whether be the point in question the Trade Union or the workers' collective — always appears separated from the management of the enterprise as a partner of management. This is the situation even if the enterprise is managed by bodies formed with the participation of workers and employees. (Thus, for instance, the enterprisal collective agreement, concluded between the enterprise and the workers' collective represented by the enterprisal organ of the Trade Union, is approved by a corporative organ formed at the side of the enterprise by workers — e.g., the general assembly of workers and employees.⁵⁸)

⁵⁸ Art. 120. of Statut, art. 60. of 1978:5.

IV. PARTICIPATION IN DETERMINING THE ORDER OF FUNCTIONING, TASKS AND ACTIVITY OF THE ENTERPRISE AND IN THE IMPLEMENTATION OF DECISIONS RELATING TO THIS

1. Introduction

From the point of view of our subject matter, the activity connected with the functioning of the enterprise may be categorized into three large groups. These are:

a) Making decisions of general character, affecting the function of the enterprise fundamentally. These can be ranged into two subgroups. One of these is formed by the decisions, determining the structure of enterprise, the order of its functioning, the single rights of workers and their obligations. These may generally be summarized under the name of enterprisal inner rules. Into the other, there fall the decisions of general character, affecting the producing, managing activity of the enterprise. Thus, first of all, to determine the plan, the tasks of production of the enterprise.

b) The second group of activity is formed by the concrete decisions, measures, serving the realization, implementation of the former ones.

c) At last, there range into the third group the supervising activity, the supervision and the analysis of the results of supervision. The double aim of this is, partly to measure the correctness of general decisions, partly to establish whether the implementation corresponded to the general decisions and whether it ensured the achievement of the demanded results. This activity is otherwise connected with the former two groups. As a result of analysis, it generally makes necessary recent general decisions or concrete implemental measures.

The workers collective, resp. the manner of the co-operation of Trade Union shows a very variegated picture.

In the decisions which exert an essential impact on the activity of the enterprise (for instance, the determination of the plan, the tasks of production), the legal rules generally prescribe the co-operation of workers and employees, resp. that of the Trade Union. Within this, as well, a more effective influence is ensured in case of the decisions that immediately effect workers and employees (e.g. the division of income, determination of the material inciting system). The co-operation is of lesser weight in case of the concrete decisions serving the implementation. These namely require, as a rule, a fast operative activity, which less endures any deliberation, discussion. But some form of co-operation is generally prescribed in the sphere of these, as well where some workers and employees can seriously be affected by the decision (e.g. notice, disposition of overwork). In these cases, however, just for facilitat-

ing the operative character instead of the corporate organs, the co-operation of the Trade Union is ensured. This is also justified by that in this sphere the safeguarding of workers' interests is mainly in question. Finally, in the scope of supervision, the prescription of co-operation is very comprehensive. This is also justified by that this is typically an activity that can be much more effectively completed than the average is, by drawing in the great number of workers and employees.

There can be differentiated four groups of the co-operation of the workers' collective, resp. of the Trade Union:

a) In the first case, the right of activity (decision, measure of implementation, etc.) is — as a rule — due in both types of the enterprises generally to the manager of the enterprise; in this, neither the workers' collective nor the Trade Union participate. There belong here generally the implementing dispositions in respect of production, management, except in cases where these are of major importance and make an impact on a rather broad scope of workers and employees; as well as the individual decisions, measures connected with the labour relations of the workers and employees, which do not affect the important interests of the given worker.

b) In cases belonging to the second group, some co-operation of the workers' collective and Trade Union is necessary to the activity (decision, implementing measure, etc.). This is the situation in case of the decisions of general character (e.g. determination of the enterprisal inner rules or the plan), too, as well as in case of the important measures of implementation concerning management and the concrete measure of implementation, affecting a rather broad sphere of workers and employees, as well as at a concrete, individual decision, connected with the labour relations of the worker and employee that affects some important interests of the worker and employee. In this scope, however, there is already to be observed some difference between the two types of enterprises. In the enterprises, namely, where collective managing bodies exist, the decisions of general character and the important measures of implementation generally fall within the competence of a collective body, and in making this, in arranging this situation, the workers' collective, possibly the Trade Union, as well, as members of the managing body, take at any rate part. Therefore, in these enterprises, a co-operation beyond these takes primarily place in case of decisions that are connected with the labour relations and of those, affecting the important interests of workers and employees. We have observed two main solutions in respect of the manner and effect of the co-operation of the workers' collective and Trade Union:

— The co-operation is only an opinion, proposal, comment, the asking for which is obligatory, their acceptance, however, is not. The enterprise, empowered to take measures, is not obliged by the declared standpoint. In this case, the motivation of non-acceptance is generally necessary.

— The co-operation manifests itself in agreement, assent. It is obligatory, to take into consideration the declared standpoint. In fault of this, no valuable decision, measure can be made.

c) In case of the third group, the right of deciding is commonly due to the management of the enterprise and the workers' collective, resp. the Trade Union. This is the situation, for instance, in connection with the collective agreement.

d) In cases falling within the fourth group, the workers' collective, resp. the Trade Union is competent to decide. The management of the enterprise is, at the best, due to be consulted. This is the situation, for instance, in connection with the utilization of the Social-Cultural fund. This form can primarily be found in enterprises that function under a one-person guidance.

2. Regulation of the inner conditions of enterprises

A) The sphere of enterprisal regulations

It is no aim of this paper, to deal with the questions of principles of regulating the enterprisal inner conditions. I must be content, therefore, with outlining only the role of the Trade Union, resp. of the workers' collective, in connection with the creation of the inner rules. Connected with this, however, I mention as a note that the expression „regulation” is used here in wide sense. I reckon here, in addition to the „regulations” in a strict sense of the world, all the acts, as well, that make rules of behaviour, precedures, with general character.

The right and possibility of the enterprise, to regulate its organization, the order of its functioning, arise from the autonomy, which is determined in the single countries by the legal rules about enterprises. Within the framework of this, the competent organs of the enterprise generally decide themselves, which problems are to be arranged and in which form. Apart from this, however, certain legal rules — first of all the Labour Codes — prescribe the regulation of questions, determined for the enterprises and even, in a part of cases, they determine even the name of the rule and the manner of its creation. In this way, we find two groups of the enterprisal rules:

— There fall into the first group the rules, the content of which is determined by the competent organ of the enterprise itself, within the framework of the autonomy, ensured for it. The organizational and functional statutes of the enterprise fall, for instance, within this circle, as well, though, in certain countries, they form a transition into the other group because their making is prescribed by the rule speaking about the state enterprise.

— Into the second group the rules can be ranged, the creation of which is prescribed by some legal rule. Some of these have names (e.g., the collective agreement, the statutes of work), others have not. There is given only the circle of subjects by the legal rule, which should be arranged (e.g., determination of timing of the weeklywork) without, however, giving any name to this arrangement. The latter ones are either realized in the framework of one of the rules with names — mostly of the collective agreement — or independently.

Between the two groups, there is an essential difference from the point of view of legal effect. In case of the first group, the basis of creating the rule is the right of disposal due to the enterprise, within its autonomy. This means in the same time the limit of rules, as well. The enterprise can only make rules in such a sphere which is under its right of disposing and it can also enforce the implementation of the rules with means at its disposal within the limits of its autonomy (e.g. calling to account with a disciplinary action). On the other hand, the establishment of rules, falling within the second group, is

rendered possible by the authorization of the legal rule. This authorization may, however, enable the creation of rules, too, that transgress the limits of the right of disposing, ensured in the framework of autonomy. Thus, a rule issued on the basis of the authorization of the Labour Code — for instance the collective agreement or the statut of work (duty list) — can modify the rights and obligations, arising from the labour relations, resp. can determine new rights and obligations. It is connected with this, as well, that in case of the second group, the legal rule giving legal power to issue rules, generally ensures further possibilities — beyond the framework of the enterprisal autonomy — for enforcing implementability. Thus, for instance, for enforcing the disposals of the collective agreement, there are generally available the same means as in case of legal rules (judicial enforcing of law and implementation, in case of injury proceedings concerning contravention of rules, possibly criminal proceedings, etc.)

The now outlined difference may play a role in that the regulation concerning the participation of the workers' collective, resp. the Trade Union shows a greater attention to the second group than to the first one.

B) The rules issued in the sphere of the enterprisal autonomy

There are determined by these rules the organization of the enterprise, the tasks, sphere of activity of the various divisions, the procedures to be followed in case of the different decisions, measures, etc. Therefore, though they cannot affect the rights and obligations arising from the labour relations, their content can considerably influence the position of workers and employees.

In case of the Bulgarian, Polish and Rumanian enterprises, where collective managing bodies are functioning, the issue of inner rules falls within the competence of these and so the workers and employees participate — as a matter of course — in creating these. Despite this, the Rumanian Labour Code prescribes that, in case of the creation of any inner rules, the agreement of the Trade Union is needed.² The rule on the state socialist units correspondingly prescribes that the inner regulations should be approved by the workers' council together with the Trade Union.³

From among the other countries, only the Soviet and Hungarian provisions give orders in this sphere. The Soviet rules generally prescribe the agreement of the Trade Union in creating the inner rules.⁴ Art. 13, sec. 2 of the Hungarian Labour Code is of narrower extent than this. According to this, the agreement of the organ of the Trade Union at the working side is needed to the arrangement of questions of general character, referring to the labour relations but not regulated in the collective agreement. Thus, an agreement, to create a rule based on the enterprisal autonomy — e.g. the rules of functioning and structure — is only needed if it in some way affects the problems of labour relations (e.g. if it regulates, who can exercise disciplinary authority or who can permit the workers and employees, to take his [her] leave).

¹ See Chap. III.

² Art. 98. sec. 2.

³ Art. 35. point o./of 1978:5.

⁴ Art. 54. sec. 1. of SU principles.

C) The enterprisal rules, prescribed by legal rules

a) The sorts of rules

Such a disposition, according to which the enterprise is obliged to settle a question, possibly with a definite name and form, may be prescribed not only in Labour Codes but in other legal rules, as well. (Thus, for instance, the legal rule may prescribe, as well, the making of a fire-protecting regulation). These latter affect, however, the position of workers and employees not at all, or but a little; we may leave them, therefore, out of consideration from the point of view of our subject (namely: the right of the workers' collective, resp. of the Trade Union to take part in management).

As earlier already mentioned, the inner rules prescribed by the legal rules are divided into two groups. In certain cases they prescribe, an inner rule of what name and content should be created. In other cases, however, only the theme to be arranged is determined and the manner of regulation is entrusted to the enterprise.

b) The rules prescribed by the labour law provisions

aa) Sorts of the rules

The enterprise is widely authorized by the Labour Codes of the socialist countries, to determine the rules affecting the labour relations. These — as already mentioned above — have partly names. The law, therefore, denominates not only the subject to be regulated but also the denomination and manner of creating it.

A) From among the modified rules, there are three, which are of general character, to be found in almost every country. These are: the collective agreement,⁵ the statut of work or inner duty rules,⁶ and the agreement or regulations of labour safety.⁷ Apart from these, we find in the Labour Code of almost every country special prescriptions concerning regulations applied only in the given country. Thus, e.g. according to the Czechoslovak Labour Code wage,⁸ resp. disciplinary ragulations,⁹ according to the Polish Labour law rules of bonuses,¹⁰ according to the GDR the plan of assisting young people.¹¹

The content of these rules shows — even in case of identical names — differences in the single countries. This presents itself the most vigorously in case of collective agreements. There are to be found three types of these. One is the collective agreement of normative character, prescribing rules for the labour relations. Such is, for instance, the collective agreement for Hungarian enterprises.¹² The other falls on the agreeing parties, it is a collective agreement fixing concrete duties. (These duties partly relate to the manner, how the obligations coming from the habour relation are to be fulfilled, resp. the guarantees

⁵ Art. 6. of SU principles, art. 9. of the Bulgarian Labour Code (abr.: BLC), art. 28. of GLC. art. 9. of HLC. art. 77. of RLC.

⁶ Art. 54. of SU principles, art. 123. of BLC, art. 11. of GLC, art. 104. of the Polish Labour Code (abr.: PLC), art. 82. of CLC.

⁷ Art. 62. of SU principles, art. 8. sec. 2. of HLC.

⁸ Art. 115. of CLC.

⁹ Art. 82. sec. 6. of CLC.

¹⁰ Art. 8. of Act 1958.

¹¹ Art. 31. sec. 2. of GLC.

¹² Art. 10. of HLC.

of this, and partly to the challenge to socialist emulation). Such is, for instance, the Bulgarian collective agreement of enterprises.¹³ Finally, there are collective agreements of mixed character, which contain together the two former contents. Such are the Soviet,¹⁴ the GDR-,¹⁵ the Rumanian¹⁶ and the Czechoslovak¹⁷ collective agreements of enterprises. There are some differences in details between the collective agreements of identical type of the single countries, as well. Likewise, there are some differences — although not of the same weight as in the collective agreements — in case of the statut of work or the labour-safety regulations, as well.

B) In addition to (the rules enumerated above, the legal rules authorize the management of the enterprise, to determine inner rules in a number of cases. Authorization like this are given not only by Labour Codes but also the different enforcement orders.

These provisions generally fall into five spheres of subjects; these are:

- the arrangement worktime-schedule,¹⁸
- establishment of additional leave,¹⁹
- arrangement of certain questions, mainly connected the task-wage system,²⁰
- the determination of certain benefits, serving labour safety.²¹ and eventually
- the use of enterprisal funds, serving cultural and social aims.²²

C) It is shown by the survey of the present rules that the enterprisal inner regulation is composite, complicated enough. There are to be found certain rules with causelessly various names which are more and more completed by authorizations given to extra regulations. This is demonstrated by the outlined enumeration, as well, given until now. Just therefore, there are to be found several overlaps, parallelisms, partly between the labour-law rules, based on the autonomy of the enterprise, resp. those dealt with now — particularly between the organizational and the functional statutes, resp. the statut of work — partly within the labour-law rules. This has a bearing on, as well, that in problems of identical character the co-operation of the workers' collective, resp. of the Trade Union, will possibly take place in a different way. The cause of this situation is, primarily, to be looked for in that the regulation of the inner conditions of the enterprise remains, for the most part, outside of the sphere of interest of jurisprudence. These subjects were rather considered as being in the domain of organization, economic life. Thus, however, the investigation, systematization of these rules from the side of the law is missing. Recently, of late, the theory of the socialist labour law begins to pay more and more attention to the inner rules of the enter-

¹³ Art. 9. of BLC.

¹⁴ Art. 6. of SU principles.

¹⁵ Art. 28. of GLC.

¹⁶ Art. 77. of RLC.

¹⁷ Art. 20. of CLC.

¹⁸ Art. 28., art. 29. sec. 2. of SU principles; point 14. of SU. Tr. U. art. 167. of GLC; art. 87., 89. and 98. of CLC.

¹⁹ Point 14. of SU Tr. U.

²⁰ Point 12. of SU Tr. U.

²¹ Point 14. of SU Tr. U.

²² Points 5. and 6. of SU Tr. U.; 55/1958.

prise. The importance of „local norms” is emphasized both from the point of view of labour relations and from the arrangement of the problems of production.²³ This will probably contribute to the clearing up of theoretical bases and connections and to making the practical situation rather well-ordered.

bb) Participation of the workers' collective, resp. of the Trade Union in making the inner rules

From the point of view of co-operation in determining the inner rules, the situation has developed in a different way in case of the collective agreement and of the other inner rules.

A) The collective agreement is always a common regulation. But in the question, who the partners of the common regulation are, three standpoints can be found:

— According to one of these standpoints, the collective agreement is concluded between the enterprise as a legal person and the workers' collective. The latter is represented by the Trade Union committee. This is the situation according to the Bulgarian,²⁴ Hungarian,²⁵ Rumanian,²⁶ and Czechoslovak rules.²⁷

— According to the other standpoint, the collective agreement is created between the manager of the enterprise and the workers' collective, and the latter of these is represented by the Trade Union. This is the situation according to the Soviet rules.²⁸

— At last, according to the third standpoint, the collective agreement is created between the manager of the enterprise and the enterprisal organ of the Trade Union. This is accepted by the Labour Code of the German Democratic Republic.²⁹

The cause of the different solutions primarily arises from the different conceptions about the character, internal structure of the state enterprise (administrative organ, economic enterprise of the State, etc). I do not deal with analysing this question because this would exceed the framework of this monograph. This seems to be superfluous if only because these differences grow blurred. The draft of the collective agreement should namely be put to debate among workers and employees and the definitive text should be made depending on the result of this.³⁰ In this way, the workers' collective can enforce its standpoint even where the Trade Union is legally one of the subjects of the collective agreement.

²³ Archipova S. A.: *Kollektivniy dogovor predpriyatiyi* (Enterprisal collectiv agreement) *Izd. Znanie, Moskva, 1975.* — Hochbaum A.: *Betriebsordnungen als rechtliche Leitungsakte* (Inner duty rules as legal rule of managing) *Wirtschaftsrecht, 1976. No. 1. p. 26—29.* — Jonczyk J.: *Zakladowe (localne) normy prawa pracy* (Enterprisal rules of labour law) *Wyd. Uniwersiteta, Wroclaw, 1976.* — Kasirin J. M.: *Rol lokalnich norm trudovo prava v obezpecheni rosta proizvoditel'mestii truda* (Rol of local rules of labour law on the development of the productivity of work) *Moskwa, 1977.*

²⁴ Art. 9. of BLC.

²⁵ Art. 10. of HLC.

²⁶ Art. 77. sec. 1. of RLC.

²⁷ Art. 20. of CLC.

²⁸ Art. 6. of SU principles.

²⁹ Art. 28. sec. 1. of GLC.

³⁰ Art. 6. sec. 2. of SU principles, art. 29. sec. 1. of GLC, art. 10. of HLC, art. 77. sec. 2. of RLC.

The situation is very interesting in the countries where the managing bodies of the enterprise are formed of workers and employees. Here participate namely these in a double quality in concluding the collective agreement. On the one hand, in the managing bodies of the enterprise — from the side of the enterprise — they discuss the draft of the collective agreement and elaborate, in connection with this, the standpoint of the management of the enterprise. On the other hand, as mentioned above, as workers and employees of the enterprise, they form one of the subjects of the collective agreement. In this connection an important question arises. This is the collective agreement in case if workers and employees form the guiding bodies of the enterprise. As in this case the workers' collective is able to enforce its own influence in connection with the decisions of guiding bodies, it seems to be needed to preserve the form of the collective agreement. The content of the collective agreement should be implied in the decision made by the highest guiding body (e.g., the assembly of workers and employees) of the enterprise. It is not excluded by this legal form that the role of the Trade Union as an organ of safeguarding workers' interest³¹ prevails. Law may prescribe that before making such a decision, the Trade Union should be consulted, or its consensus should be achieved.

B) In case of the other labour-law regulation — including the denominated rules, as well — the situation is less complicated. These are generally issued by the management of the enterprise. An exception is the Soviet agreement about labour safety, induced as an agreement between the manager of the enterprise and the enterprisal organ of the Trade Union,³² as well as the plan of assisting young people to be made according to the rules of the GDR. The draft of this is prepared by the manager of the enterprise together with the guidance of youth federation, then he (she) harmonizes it with the management of the Trade Union, of the sports-association of the factory, as well as of the Society of Sport and Technics and puts it before young people, for being deliberated.³³

In the countries where the guiding bodies of the enterprise are formed by workers and employees, these rules are issued by these and the workers' collective takes part in making these.³⁴ In the other countries, generally the agreement of the Trade Union is needed for making the regulation.³⁵

3. Co-operation in determining the plan of enterprise

The decisive momentum of life of the enterprise is to determine the plans, tasks of production and management. The legal rules prescribe in connection with this, as well, the co-operation of workers and employees. Two solutions can be found. In the countries where the managing bodies of the enterprise are formed with the participation of the workers' collective, resp. the Trade

³¹ See: Chap. II.

³² Art. 62. sec. 1. of SU principles.

³³ Art. 31. sec. 2. of GLC.

³⁴ Art. 117. and 121. of Statut, art. 17. and 28. of Act 1981. art. 33. point o) of 1978:5.

³⁵ Art. 54. of SU principles, art. 124. of BLC, art. 92. of GLC, art. 13. sec. 2. of HLC, art. 82. sec. 2. of CLC.

Union, workers and employees participate, in the framework of these, in determining the tasks of plan and production. Thus in Bulgaria, in the session of the economic council, resp. committee every suggestion and proposal referring to the plan of the enterprise is deliberated.³⁵ The general assembly of workers and employees discusses the plan of the enterprise, can offer proposals, make comments in connection with this.³⁷ while the approval of the plan of the enterprise, and of the indices etc. connected with that, falls into the competence of the economic council, resp.³⁵ The legal rule ensures further rights, as well, for the enterprisal organs of the Trade Union. On the basis of these, they participate in elaborating the plans; for this, they may offer proposals to the superior economic organs. The opinion of Trade Unions should also be forwarded and the rejection of these should be motivated.³⁹ In Poland, the determination of fundamental directions connected with the development of the enterprise and, in the framework of this, the approval of the annual plans of the enterprise fall into the competence the of the workers and employees.⁴⁰ In Romania, the workers' council elaborates the plans of the enterprise,⁴¹ which are discussed and accepted by the workers' general assembly.⁴²

In the other countries where the participation of Trade Unions and workers and employees is not built into the organization of the enterprise, the participation of Trade Unions, resp. workers and employees in making and discussing the plan is ensured partly by Labour Codes, partly by particular rules of the law. This can be done with two methods:

— One of these is the participation of Trade Unions in preparing and elaborating the plans of the enterprises. According to art. 238, sec. 2 of the Russian Labour Code, Trade Unions take part in the preparation and elaboration of plans, to this, they may make proposals. Similar provisions are contained in Art. 7, sec. 1 of the Labour Code of the GDR. On this basis, sec. 2 of this article prescribes that the heads of state organs, organs of economic guidance and managers of factories are obliged to evaluate the proposals of Trade Unions at length (the head of the enterprisal organ of the Trade Union is entitled to participate in dealing with the approvals⁴³) and render account to the Trade Union of dispatching the proposal. If the proposal cannot be realized, or only at a later date, that must be motivated. The presidia and boards of Trade Unions are authorized, to raise objection against the rejection of the proposal to the superior organ of the State or of economic guidance. According to the Hungarian rules, the Trade Union should be drawn into the elaboration of plans. It may offer proposals, how to draft the plan.⁴⁴

— The second method is the deliberation of proposals about plans by workers and employees. In connection with this, art. 32 of the Labour Code of the GDR contains highly detailed provisions. According to these, the manager of the enterprise, together with the board of Trade Union, should organ-

³⁶ Art. 117. of Statut.

³⁷ Art. 120. of Statut.

³⁸ Art. 117. and of Statut.

³⁹ 55/1958.

⁴⁰ Art. 10. and 24. of Self-management.

⁴¹ Art. 35. point a) of 1978:5.

⁴² Art. 62. point a) of 1978:5.

⁴³ Art. 33. of GLC.

⁴⁴ Act No VII. of 1972., 1018/1977.

ize the debate about the plan, in order to direct the creative initiative of workers and employees to the exploration of reserves and to the purposive fulfilment and over-fulfilment of productional tasks. To the workers' collectives, concrete tasks should be given. The most important points and the ways of solution should be made known for overfulfilling the tasks of State, as well as the advantages of material recognition, connected with undertaking important duties. The operating staff should ensure that the proposals and initiatives of workers and employees be appreciated and used for making the definite plan. If the proposals, originating from the discussion of plan are not deliberated, then this is to be motivated before workers and employees.

4. Co-operation in implementation

a) Introduction

The Trade-Union organs, resp. the workers' collective take part not only in making the inner rules and determining the plan but also in making the decisions aimed at implementing these and taking measures, i.e. in the everyday work of managing the enterprise. In connection with this, there are to be emphasized two characteristic traits. One of these presents itself in that in this sphere — as mentioned above — taking into consideration the faster, operative character of the decisions, measures of implementation, there is but a little possibility for the co-operation of corporative organs., though in the enterprises, the managing bodies of which are formed with the participation of workers and employees, the essential decisions of implementation fall into the competence of these. The other characteristic trait is that the legal rules give more possibilities in connection with the decisions of implementations connecting with labour relations and less in connection with the questions, affecting production, management. This is connected with that in the course of the implementation of rules referring to labour relations the necessity of safeguarding workers' interests presents itself with a larger weight.

Connected with the decision of implementing character, in connection with the co-operation of workers' collective, resp. of the Trade Union, three groups can be differentiated:

— the first group is formed by the cases in which the right to decide is due to a managing body of the enterprise, organized with the participation of workers and employees,

— into the second group the cases fall, where in the enterprise functioning on the basis of one-man guiding some right of co-operation is due to the workers' collective,

— at last, the third group includes all the types of enterprises, in which the right of co-operation is due to the Trade Union.

Within the single groups, I am dealing separately with co-operations, connected with decisions concerning labour relations, resp. production or management.

b) Sphere of authority of the managing bodies formed with the participation of workers and employees

aa) Decisions of implementation, connected with labour relations

The legal regulation shows the following picture: At Bulgarian enterprises:

I. To the proposal of the economic council and Trade Union, the general assembly of the enterprise discusses the following questions and puts them comments, suggestions:

- a project concerning the arrangement of the wages of workers and employees and the inner economic account,
 - the measures connected with the social development, the improvement of the welfare and conditions of work,
 - the measures connected with the strengthening of labour discipline.
- The role of the general assembly of the units is similar.

II. The enterprisal assembly decides about the collective agreement and the statut of work (duty list).

III. The economic council decides — in case of the agreement of the Trade Union:

- about the readjustment of the wages and salaries of workers and employees and about the inner economic account,
- about the division of the socio-cultural funds,
- about measures necessary to the improvement of the conditions of work, social conditions and safeguarding of the work.⁴⁵

In the Polish enterprises.

I. the general assembly of the workers and employees decides about the division of the enterprisal fund (constituted from the earnings of the enterprise).

II. The workers' council

assents to the duty list of the enterprise, decides — according to the Act on the State enterprises — on the employment and the dismissal of the manager and of the employees in leading position.⁴⁷

At Rumanian enterprises:

I. the workers' council

- establishes the system of the elaboration and supervision of the local working norms, and submits to the workers' assembly for approval,
- organizes the preparation of workers and employees, their division of work and promotion,
- decides about the division of work and dismissal of the managers of the single units (departments, factories, etc.),
- makes — together with the Trade Union — the allocation of flats belonging to the dwelling fund, resp. it allows credits to the workers' home-building,
- approves the creation and use of a social fund,
- approves — together with the Trade Union — sending workers and employees, honoured in the emulation, into organized holidays.⁴⁸

II. The executive bureau of the workers' council:

- approves the emoluments of workers and employees according to their arrangement and other benefits,
- determines the persons who are authorized, on the basis of the special working conditions, to get some bonuses, as well as the persons who should be ranged into categories I and II which ensure some advantages from the point of view of the claim to receive a pension,

⁴⁵ Art. 120., 129. and 123. of Statut.

⁴⁶ Art. 10. of Self-management.

⁴⁷ Art. 10., 24. and 25. of Self-management.

⁴⁸ Art. 35. points f), g), h), m), n) of 1978:5.

- approves the promotion of workers and employees and the decrease of minimum time spent by them in labour relations, which is necessary for their promotion,
- approves the appointment and dismissal of the employees in managerial position who do not fall within the competence of the workers' council,
- exercises the disciplinary competence in case of the managers of the different units,
- approves together with the organs of the Trade Union the local working norms,
- takes measures for the application of rules concerning the protection of workers and employees and the continuous improvement of working conditions,
- ensures the conditions of the suitable functioning of the dining halls and canteens and of the realization of measures serving the socio-cultural aims of workers and employees,
- it takes the necessary measures in the interest of the social and professional accommodation of young workers and employees.⁴⁹

III. The general assembly of workers and employees:

- approves the programme of elaborating and supervising of working norms and
- the fund of profit-sharing.⁵⁰

bb) Decisions of implementation, connected with production and management

It is — as already mentioned — very well shown by the legal regulation that the decision in the essential questions of implementation, connected with production, management, falls within the competence of the managing bodies. This presents itself particularly vigorously in the Rumanian enterprises. The legal regulation shows, in detail, the following picture:

In case of the Bulgarian enterprises:

I. The general assembly of workers and employees discusses the measures aiming at the realization of the economic and organisational-technical tasks which are necessary to the fulfilment of the plan of the enterprise and makes proposals connected with them.⁵¹

II. The economic council:

- approves the indices, norms following from the plan of the enterprise and the conditions of the evaluation of planning, regulating, stimulating and of the activity of the basic units,
- elaborates and implements certain measures for ensuring the fulfilment of the reasonable tasks of the enterprise and for raising the effectivity of the economic activity.⁵²

In Poland the regulation — in detail — is the following:

- I. It falls within the competence of the general assembly of workers and employees,
- assent to the statut of the enterprise,
 - evaluation of the annual activity of the workers' council and of the manager,

⁴⁹ Art. 37. points j), p), r), s), t), ty), u), v) of 1978:5.

⁵⁰ Art. 64. points g) and i) of 1978:5.

⁵¹ Art. 120. and 123. of Statut.

⁵² Art. 116. and 120. of Statut.

- assent to the long term plans of the enterprise.
- determination and modification of the annual plans,
- assent to the annual report of the activity of the enterprise,
- assent to the investments,
- assent to the establishment of common or mixed enterprise, adherence to a cooperation of enterprises, to the fusion, resp. division of the enterprise,

The general assembly may declare his opinions on every affairs of the enterprise, too.⁵³

II. It falls within the competence of the enterprisal workers' council:

- decision on the building of workers' home and social establishments,
- decision on the modification of the direction of the activity of the enterprise,
- decision on the division of the fund constitute from the earnings of the enterprise, and on the principles of its utilization,
- assent to the acquisition and transfer of fittings and machines,
- decision on the problems of technical and innovation clubs,
- assent to the annual report of the activity of the enterprise.

The workers' council may declare opinion in every affair of the enterprise and of the management.⁵⁴

(The competence of the workers' council of the units would be determined by the statute of the workers' self-management according to art. 33. of the Act on the workers' self-management.)

At the Rumanian enterprises:

I. The workers' council:

- in justified cases, it modifies — with the consent of the interested organs — the annual tasks of production, given in natural units, and
- takes measures for the use, as rational as possible, of the standing and productive forces,
- it ensures the measures, aiming at getting acquainted with, and applying, the decisions of party and State,
- it ensures the creation and use of funds serving for housing and other funds of social character.⁵⁵

II. The executive bureau of the workers' council:

- organizes the fulfilment of the tasks of the plan, approves the breakdown of plan-indices to months, takes measures in the interest of utilizing the productive capacities completely, the labour force and working hours rationally,
- decides certain measures for the sake of concluding economic contracts and fulfilling them,
- takes measures for the provision with the needed raw materials and auxiliary materials,
- takes measures for the sake of fulfilling the export-import plan in due tempo,
- takes measures in the interest of bringing the products up-to-date, introducing new products, technologies, results of research,
- approves the balances of materials, norms of consumption, usance,

⁵³ Art. 10. of Self-management.

⁵⁴ Art. 24—25. of Self-management.

⁵⁵ Art. 35. points b—d), i), m) of 1978:5.

- modifies — in justified cases — the annual and quarterly plan-tasks of the single units,
- approves the purchase of the equipments for the investments prescribed in the plan,
- approves the putting into operation of the investments falling within its competence,
- takes measures in the interest of the scientific organization of production and work,
- takes measures for the sake of ensuring the maintenance of the corpus of property,
- approves the amounts to be applied for publicity campaign,
- determines the price of products in cases falling within the competence of the enterprise.⁵⁶

III. The workers' general assembly:

- accepts the programmes, serving for realizing the annual and five-year plans,
- approves the technical and organizational measures that ensure the fulfilment of the plan-tasks as well as the undertakings of workers and employees concerning additional works,
- determines the object of social purpose, to be achieved from the amounts saved at investments.⁵⁷

c) Competence of the workers' collective in enterprises functioning on the basis of the principle of one-man management

aa) In enterprises functioning on the basis of the principle of one-man management, in case of the decisions of implementation connected with labour relations, the right of co-operation is generally due to the Trade Union. The workers' collective exercises such rights only exceptionally. Thus, for instance, according to the Hungarian rules, the workers' deliberation decides, in case of a result achieved in a social emulation, on granting an honorific title to the worker and employee.⁵⁸

bb) In connection with decisions of implementing character, concerning production, management, only the right of consultation, proposal is generally due to the workers' collective. The detailed picture of situation is as follows:

Art. 97 of the fundamental principles of labour law of the Soviet Union establishes that workers and employees are authorized to take part in discussing and deciding the problems of developing production and to offer proposals in order to improve the work of enterprise, institution or organization. The fundamental form of the direct participation in guiding workers and employees is the discussion of production, within the framework of which every essential question is discussed in connection with the production, management of the enterprise. The discussion of production has a consultative and advisory sphere of action.⁵⁹

According to art. 2 of the Labour Code of the GDR, the labour law ensures that workers and employees form with their co-operation the political, economic, social and cultural life of the enterprise and that they take part

⁵⁶ Art. 36. points a—1), k—o) of 1978:5.

⁵⁷ Art. 62. points a—b), e) of 1978:5.

⁵⁸ Directives of the National Council of Trade Unions.

⁵⁹ Point 8. sec. 3. of SU TR. U.

more and more comprehensively and expertly — primarily through Trade Unions and their organs — in the management and planning. Art. 19 is completing this with that the manager of the enterprise should inform the workers' collective in due time on the requirements and particular problems, needed in order to fulfil the tasks of the enterprise. In the course of this, it should explain the political and economic connections and should answer the questions of workers and employees. The manager is obliged to lead the readiness of workers and employees to initiate in the direction of solving the most important tasks and should deliberate with workers and employees on the best ways of solution. (I have earlier already mentioned that according to the legal regulation of the GDR the co-operation of workers and employees takes place in the framework of the Trade Union. I shall, therefore, speak there about the detailed rules.)

According to the Hungarian rules, at the instances of the workshop democracy, every important question that falls within the competence of the enterprise and affects the management and the interests of workers' collective, should be discussed. For the sake of implementing this provision, the managers of enterprises ought to ensure continuously that the workers and employees be informed in every case and in due time on the most important tasks of production and management so that they can participate prepared on the formation and implementation of the decisions of the enterprise.⁶⁰

d) Competence of Trade Unions

aa) Implementing decisions, measures concerning labour relations

In connection with the concrete implementing decisions, measures concerning labour relations, the possibilities for co-operation are widely ensured not only by Labour Codes but also by the rules of implementation. Upon these — as mentioned in the introduction of this monograph — I will generally not expatiate. The regulation, concerning the rights ensured for Trade Unions, shows a variegated enough picture. This manifests itself in the cases, as well, connected with which the right of co-operation is due to the Trade Union, and in respect of the character, effect of this right.

As to the question of content, these legal rules ensure some kind of co-operation to the Trade Union when the decision, measure affects the essential interests of the worker and employee in question, or of the whole workers' collective. In this connection, it is to be noted that these cases are not identical in every country and the form of co-operation is not absolutely identical in the identical cases, either.

The legal rules elaborated in the framework of this monograph generally ensure rights of co-operation to Trade Unions connected with the following scopes of subjects:

- conclusion of the labour contract generally,⁶¹ resp. in case of the employment of a worker or employee younger than 16 years old or of a second labour relation,⁶²
- transfer,⁶³

⁶⁰ Points I. 4. and 6/a. of 1018/1977.

⁶¹ Art. 43. of GLC.

⁶² Art. 74. of SU principles, SU TR. U.

⁶³ 55/1958., art. 50., 52. and 88. of GLC.

- cessation of labour relation (by agreement,⁶⁴ notice,⁶⁵ dismissal⁶⁶).
- prescription of night-work,⁶⁷ overwork,⁶⁸ including the work in the weekly day of rest,⁶⁹ resp. the provision for the weekly day of rest on another day,⁷⁰ and the situation being on call,⁷¹ as well,
 - provision for rest during the work,⁷²
 - provision for,⁷³ and interruption of, leave,⁷⁴ granting of an extraordinary or reward leave,⁷⁵
 - in connection with wages, the introduction of wage-system or the payment on results,⁷⁶ classification of works and workers,⁷⁷ establishment of works, establishment of norms,⁷⁸ determination of wages,⁷⁹ bonuses,⁸⁰ determination of a revision of wages affecting all workers and employees of the enterprise,⁸¹
 - pecuniary assistance⁸² and subsidy in kind⁸³ from the socio-cultural fund, assisting of fathers remained single,⁸⁴ ensurance of a household free day for child-tutoring parents,⁸⁵
 - determination of certain measures, serving for developing workers and employees,⁸⁶ putting into use new or reconstructed workshop buildings,⁸⁷ determination of measures serving the protection of young people,⁸⁸
 - sending for training and continued education, resp. concluding resp. cancelling contracts concerning this,⁸⁹
 - proposition concerning decoration, rewarding,⁹⁰

⁶⁴ Art. 49. GLC.

⁶⁵ Art. 18. of SU principles, art. 26., 57. and 64. of GLC, art. 16. of HLC, art. 52. sec. 3. of PLC, art. 32. of RLC, art. 59. of CLC.

⁶⁶ 55/1958., art. 26. and 57. of GLC, art. 132. of RLC.

⁶⁷ Art. 170. sec. 2. of GLC.

⁶⁸ Art. 30. sec. 3. of SU principles, 55/1958., art. 173. and 183. of GLC, art. 98. sec. 2. of CLC.

⁶⁹ Point 17. of SU TR. U. art. 30. sec. 3. of SU principles.

⁷⁰ Art. 12. sec. 2. of RLC.

⁷¹ Art. 180. of GLC.

⁷² Art. 89. of CLC.

⁷³ Art. 32. sec. 2. of SU principles, art. 197. of GLC, art. 100. sec. 4. and art. 106. sec. 1. of CLC.

⁷⁴ Art. 198. of GLC.

⁷⁵ Art. 2. of implementing decree of HLC.

⁷⁶ Art. 104. of GLC.

⁷⁷ Art. 37. sec. 2., art. 38. sec. 3. of SU principles.

⁷⁸ Art. 39. sec. 1. of SU principles, 55/1958., art. 78. sec. 1. of GLC. art. 36. of 1978:5.

⁷⁹ 55/1958., art. 2. of the implementing decree of HLC, art. 17. sec. 8. of Act 1958.

⁸⁰ 55/1958., art. 116. and 119. of GLC.

⁸¹ Art. 120. of Statut.

⁸² Art. 227. and 237. of GLC, art. 7. point 3/d. of Acp 1958., art. 140. sec. 3. of CLC.

⁸³ Art. 238. of GLC, art. 2. of implementing decree of HLC.

⁸⁴ Point 15. of SU TR. U., art. 35. of 1978:5.

⁸⁵ Art. 195. and 251. of GLC.

⁸⁶ Point 15 of SU TR U. art. 120. of Statut.

⁸⁷ Art. 59. sec. 2. of SU principles.

⁸⁸ Point 25. of SU TR. U.

⁸⁹ Art. 146. and 157. of GLC.

⁹⁰ Art. 93. and 170. of GLC, art. 2. of implementing decree of HLC, art. 35. of 1978:5.

— decision of complaints, connected with innovations, inventions,⁹¹
— determination of measures, needed in the interest of educating workers and employees who violated workshop discipline,⁹² participation in the disciplinary procedure,⁹³ resp. the decision with nullifying the disciplinary punishment,⁹⁴ decision on the justified or unjustified character of an omission, resp. the decision of its possible working off,⁹⁵ establishment of the material liability of a worker or employee.⁹⁶

The forms of the co-operation of the Trade Union are — as already mentioned — extremely varied, they expand from announcing the proposal, resp. opinion to the independent decision of the Trade Union. The variety of the picture is increased by that the rules of the single countries use in certain cases different expressions for the identical forms of co-operation. To this question I shall later return. For the time being, I have given the expression used by the legal rule in the following expounding. The picture shown by the legal regulation is the following:

A) The opinion of the Trade Union is necessary:

— before dismissal or transfer to another work,⁹⁷ as well as in case of the notice of the labour contract,⁹⁸

— before stating the plan of sending on leave.⁹⁹

— in connection with the measures concerning wages and norms, except in cases where the rules give new rights.¹⁰⁰

B) The Trade Union may make written objection against the intention to notice a labour contract concluded for an indefinite time.¹⁰¹

C) The Trade Union may make a proposal:

— in connection with wages and norms,¹⁰²

— to revoke a disciplinary punishment prematurely,¹⁰³

— to send workers and employees to training and continuative education.¹⁰⁴

D) The Trade Union should be informed on:

— the application of material liability,¹⁰⁵

— the planned conclusion, modification or premature notice of a contract of qualification.¹⁰⁶

E) A previous consent of the Trade Union is necessary:

— to notice the labour contract,¹⁰⁷ with immediate effect,¹⁰⁸

⁹¹ Point 9. of SU TR. U.

⁹² Art. 76. sec. 1. of CLC.

⁹³ Art. 256. sec. 3. of GLC.

⁹⁴ Art. 258. of GLC.

⁹⁵ Art. 115. and 167. of GLC.

⁹⁶ Art. 265. of GLC.

⁹⁷ 55/1958, art. 50., 52. and 88. of GLC.

⁹⁸ Art. 52. sec. 3. of PLC, art. 132. of RLC.

⁹⁹ Art. 163. sec. 1. of PLC.

¹⁰⁰ 55/1958.

¹⁰¹ Art. 38. of PLC.

¹⁰² 55/1958.

¹⁰³ Art. 258. of GLC.

¹⁰⁴ Art. 146. of GLC.

¹⁰⁵ Art. 265. of GLC.

¹⁰⁶ Art. 157. of GLC.

¹⁰⁷ Art. 18. of SU principles, art. 26., 57. and 64. of GLC, art. 59. sec. 1. of CLC.

¹⁰⁸ Point 18. of SU TR. U., art. 57. of GLC, art. 59. sec. 1. of CLC.

- to the notice of the contract of qualification by the enterprise,¹⁰⁹
- to the night employment given to industrial apprentices,¹¹⁰ to the determination of the quantity of overworks to be performed,¹¹¹ to prescribing overwork and being on call,¹¹²
- to the establishment of the between-term interval,¹¹³ to that of the beginning of leave.¹¹⁴
- F) The consent of the Trade Union is necessary:
 - to the employment of persons younger than 16 years old,¹¹⁵ to the permission of undertaking a second labour relation,¹¹⁶
 - to the termination of the labour relation of a pregnant woman,¹¹⁷
 - to performing work in the weekly day of rest,¹¹⁸ to giving the weekly day of rest on another day,¹¹⁹
 - to the establishment of the plan of sending on leave,¹²⁰ in certain cases to giving,¹²¹ resp. interrupting a leave,¹²²
 - to introduce norms, staff-frameworks¹²³ to supervise¹²⁴ to range works and workers, to introduce the system of time-rating of piece-rating,¹²⁵ to establish certain bonuses,¹²⁷ to the decisions concerning the wage revision of workers and employees,¹²⁸
 - to the decision on the use of funds determined for social or cultural aims,¹²⁹ to giving financial assistance¹³⁰ or that in kind¹³¹ from a social fund; to the assistance of lonely mothers, to ensuring household free-days for parents,¹³²
 - to measures necessary for creating healthy and safe working conditions,¹³³
 - to making proposal to conferring distinction, reward,¹³⁴
 - to the decision whether the omission should be considered as justified

¹⁰⁹ Art. 157. sec. 2. of GLC.

¹¹⁰ Art. 170. sec. 2. of GLC.

¹¹¹ Art. 98. sec. 2. of CLC.

¹¹² 55/1958., art. 143., 157., 173. and 180. of GLC.

¹¹³ Art. 89. of CLC.

¹¹⁴ Art. 106. sec. 1. of CLC.

¹¹⁵ Art. 74. of SU principles.

¹¹⁶ SU TR. U.

¹¹⁷ Art. 157. sec. 2. of PLC.

¹¹⁸ Point 17. of SU TR. U.

¹¹⁹ Art. 124. sec. 2. of RLC.

¹²⁰ Art. 32. sec. 2. of SU principles, art. 193. sec. 2—3. of GLC.

¹²¹ Art. 100. sec. 4. of CLC.

¹²² Art. 198. of GLC.

¹²³ Art. 39. sec. 1. of SU principles, 55/1958., art. 78. of GLC.

¹²⁴ Art. 39. of SU. 55/1958.

¹²⁵ Art. 37. sec. 2, art. 3., principles, of GLC.

¹²⁶ Art. 104. of GLC.

¹²⁷ Art. 116. and 11. of GLC.

¹²⁸ Art. 121. of Statut.

¹²⁹ Art. 121. of Statut, art. 237—238. of GLC.

¹³⁰ Art. 238. of GLC, art. 2. of the implementing decree of HLC.

¹³¹ Point 15 of SU TR. U.

¹³² Art. 185. and 251. of GLC.

¹³³ Point 15. of SU TR. U.

¹³⁴ Art. 170. of GLC, art. 2. implementing decree of HLC.

or unjustified,¹³⁵ as well as, in case of lateness, to ordering the working off of the dropped time.¹³⁶

G) Approbation is necessary from the side of the Trade Union:

- to doing overwork and weekly day-of-rest work,¹³⁷
- to taking over certain buildings that serve new or reconstructed factory aims,¹³⁸

H) The manager of the enterprise decides, resp. takes measures together with the Trade-Union committee:

- about establishing bounties and bonuses, and withdrawal of these,¹³⁹
- about using the social and cultural fund,¹⁴⁰
- about deciding on complaints connected with innovations and inventions.¹⁴¹

I) Co-operation is needed with the Trade-Union committee:

- to the determination of tasks arisen in the field of training and continuative education,¹⁴²
- in the course of making the cultural, sporting and recreational institutes of the enterprise function,¹⁴³
- in the course of measures to be taken for the sake of educating the workers and employees who have offended the discipline of work.¹⁴⁴

J) Collaboration (Participation) from the side of the Trade Union:

- with workers and employees during talkings about their qualification,¹⁴⁵
- in the course of the disciplinary process,¹⁴⁶
- in the course of discussing the measures that serve the protection of juvenile workers and employees.¹⁴⁷

K) There take place under the guidance of the Trade Unions:

- the selection of the co-workers of the cultural institutes of the enterprise and the decision about the use of equipments,¹⁴⁸
- making the institutes, maintained from the socio-cultural fund.¹⁴⁹

By the above-given enumeration, it is shown well what was mentioned before: that the forms of exercising the rights due to Trade Unions are very various. It is to be added to this, as well, that — as seen from the legal side — in more than one case, it seems to be no difference between the single categories.

It does not seem justified to differentiate between the preliminary contribution, agreement and permission. It is shown by the expressions: agreement, contribution and permission equally that the decision, measure of the

¹³⁵ Art. 115. of GLC, art. 2. of implementing decree of HLC, art. 29. sec. 4. of CLC.

¹³⁶ Art. 115. of GLC.

¹³⁷ Art. 30. sec. 3. of SU principles.

¹³⁸ Art. 59. sec. 2. of SU principles.

¹³⁹ 55/1958.

¹⁴⁰ Art. 237. of GLC.

¹⁴¹ Point 15. of SU TR. U.

¹⁴² Art. 130. of GLC.

¹⁴³ Art. 140. sec. 3. of CLC.

¹⁴⁴ Art. 76. sec. 1. of CLC.

¹⁴⁵ Art. 157. of GLC.

¹⁴⁶ Art. 256. of GLC.

¹⁴⁷ Point 25. of SU TR. U.

¹⁴⁸ Art. 226. of GLC.

¹⁴⁹ Art. 13. sec. 4. of HLC.

management of the enterprise is only valid if the Trade Union has the same standpoint and also expresses this unambiguously. If this is missing, the decision, measure are invalid, cannot be executed, just as if they had not been created at all. It is sufficient, therefore, to use one of the expressions. As to the communication of the standpoint of the Trade Union, the reference to the preliminary communication is not justified. It follows from the former exposition that the communication of the standpoint of the Trade Union should always take place previously. The declaration contrary solution is necessary. That is to say, the legal rule should only express if it is also possible, to acquire the consent or agreement posteriorly, too. This solution is, for instance, chosen by art. 173, sec. 2 of the Labour Code of the GDR, in connection with the order of overwork.

It is not clear, what is the legal content of „co-operation“. This means, in my opinion, that the right of decision, measure is due to the management of the enterprise and to the Trade Union jointly. (This differs from the preliminary consent in so much that in case of consent, the decision, measure appears in the name of the management of the enterprise and this bears the responsibility for its justness, implementation. In case of a right of joint decision, the decision, measure appear in the name of the management of the enterprise and of the Trade Union and they bear jointly the responsibility for the justness and implementation of these. This seems, therefore, to be identical with the right of joint decision).

The expression „Collaboration“ or „participation“ is less clear than the former, it is questionable, whether or not it is identical with co-operation. As the legal regulation of the same country (e.g. the GDR) uses both of these, it is obvious that they see some difference between the two expressions. I believe that in case of „collaboration“ or „participation“ the right of decision, measure is due to the management of the enterprise but in forming this, the Trade Union takes part, as well.

It seems, therefore, that the following forms of exercising the rights of Trade Union should be distinguished:

- proposal,
- opinion,
- comment (in its content and legal effect, this is identical with the opinion, it does not oblige, therefore, the management of the enterprise. It differs, however, so far that while the opinion is always preliminary, the comment may take place subsequently, as well):
 - consent or contribution,
 - common (joint) decision,
 - independent Trade-Union decision,
 - information.

bb) Participation in the implementing decisions, measures, connected with production

In respect of the decisions, measures, connected with the implementation of the plan, generally with production, management, the competence of the organs of the Trade Union is considerably narrower than in connection with labour relations.

In Bulgaria and Rumania, where the managing bodies of the enterprises are formed with the participation of workers and employees, the Trade Union participates in the questions of production, management, essen-

tially in two ways. On the one hand, the Trade Union appoints the electing meetings of workers and employees, as well as it helps the activity of workers and employees in these fields. On the other hand, the Trade Union takes part in the single managing bodies.¹⁵⁰

In the other countries, the role of the Trade Union is of three directions:

— its opinion is necessary to the elaboration of the essential measures serving the implementation of the plan,

— together with the management, it determines the instances of the participation of workers and employees, the competence, order of activity of these,

— it organizes the conferences of production of workers and employees and the other forms of co-operation, as well as their emulation.¹⁵¹

¹⁵⁰ See Chapt. III. 3/B.

¹⁵¹ See Chapt. III. 3/C.

V. SUPERVISION OF THE ACTIVITY OF THE ENTERPRISE

1. Authority to exercise the competence of supervision

The competence of supervising the activity of the enterprise is vested by the legal rules primarily to Trade Unions.¹ The workers' collective joins in the supervision generally through Trade Unions. The enterprises where the managing bodies are formed with the participation of workers and employees, make an exception. The competence of supervision over the activity of the enterprise is due to these bodies and thus the workers and employees themselves take part in this.² An exception is made by the GDR- and Hungarian regulations, which ensure the right of supervision to the workers' collective, as well.³ Beyond this, the right of supervising the implementation of the collective agreement is generally due to workers' collective in every country.⁴

2. Content of the right of supervision

a) Content of the right of supervision the Trade Union

The right of supervision, due to Trade Unions, has two main directions. One of these is the supervision connected with the emulation, the other is the supervision of production, management. The rights ensured in the field of the first are of wider extent. This follows from the traditional task of the Trade Union in the field of the safeguarding of workers' interests, as well.

aa) Right of supervision, connected with labour relations

The legal rules generally invest Trade Unions and within these the enterprisal organs of the Trade Union with a sphere of supervising rights of general character, in connection with labour relations. Thus, according to art. 96, sec. 4 of the fundamental principles of the Soviet labour law, Trade Unions exercise supervision and oversight over labour legislation and the implementation of the labour safety regulations, they supervise the housing and life conditions

¹ Art. 96. sec. 4. of SU principles, 55/1958., art. 292. sec. 1. of GLC, art. 14. sec. 1. of HLC, art. 181. sec. 2. of RLC.

² Art. 120. and 123. of Statut, art. 7., 17. and 18. of Act 1958., art. 35., 36. and 62. of 1978:5.

³ Art. 19. of GLC, art. 10/A. sec. 2. of HLC.

⁴ See: Decision of 1966. of the Council of Ministers of USSR on the collective agreement, art. 29. of GLC, art. 10. of HLC, directives No 103. of the Council of Ministers of Czechoslovak Socialist Republic and the National Council of Trade Unions.

of workers and employees. According to art. 292, sec. 1 of the Labour Code of the GDR, Trade Unions exercise the social supervision through their presidia and other Trade-Union organs and by setting in worker-controllers. This provision is completed by art. 19, sec. 1, according to point e) of which the enterprisal organ of the Trade Union is authorized to supervise the realization of the rights due to workers and employees. According to art. 14, sec. 1 of the Hungarian Labour Code, the Trade Union is authorized to supervise the fulfilment of rules concerning the living and working conditions of workers and employees. According to art. 181, sec. 2 of the Rumanian Labour Code, the Trade Unions — in the sense of the law and of their organizational statutes — organize and exercise social supervision over the implementation of the legal provisions connected with labour relations.

Certain provisions particularly emphasize — apart from the here-mentioned general authorization — a number of questions. Thus:

— Several provisions speak about the supervision of implementing the labour-safety regulations. According to the Bulgarian law concerning Trade Unions, the Trade-Union committees exercise supervision in the questions connected with safeguarding the Workers' interests and industrial hygiene, over the giving out of means necessary to these in the enterprises and institutes, as well as over the implementation of the provisions of social and welfare-laws.⁵ According to art. 201, sec. 2 of the Labour Code of the GDR, the Trade-Union managements of the enterprise are authorized to supervise the implementation of the health and labour safety regulations. And art. 20, sec. 2 prescribes that the leader of the enterprise, together with the sanitary organ functioning in the enterprise and the representative of the Trade-Union leadership of the enterprise, should confer on the monthly supervision. According to art. 142, sec. 2 of the Rumanian Labour Code, the leaderships of units are obliged, together with the Trade-Union and sanitary organs, to analyse from time to time the causes of workers' accidents and diseases and take measures for preventing the harmful factors that endanger the life and health of workers. According to art. 136, sec. 1 of the Czechoslovak Labour Code, the organs of the Czechoslovak Revolutionary Trade-Union Movement are authorized to carry out social supervision in the single enterprises over the situation of the safeguarding of work and health.

— According to art. 167 of the Rumanian Labour Code, Trade Unions follow with attention the implementation of the working time and the time of rest, as well as that of other legal provisions, established by law-making concerning the work.

— According to art. 146, sec. 3 of the Labour Code of the German Democratic Republic the leadership of the workshop Trade Union is authorized to supervise the implementation of measures on the special qualifications.

— According to item 22 of the Soviet regulation on the rights of the enterprisal organs of Trade Unions, the Trade-Union committee supervises the fulfilment of plans of the home-building and cultural-welfare labours of construction, follows with attention the exploitation of the housing fund and of the communal-welfare undertakings. The representative of the Trade-Union participates, with membership right, in the committee, which was

⁵ 55/1958.

created for taking over the buildings, designed to be living-houses for satisfying the demands of the workers and employees of the enterprise, establishment, organization, as well as the buildings and establishments, built for supplying their cultural-welfare demands.

— According to item 9 of the above-mentioned rule of law, the Trade-Union committee promotes the development of the activity of inventors and innovators by all means, and exerts a supervising activity over the timely application of the accepted inventions and employees' suggestions. The Trade Union committee — co-operating with the manager of the enterprise — investigates the complaints of workers and employees, connected with the rejection of their proposals for innovations, as well as with the complaints, submitted in connection with the question of the manner of calculating the remuneration for the accepted innovation-proposals and of the term of payment.

— Similarly, according to item 27 of the above-mentioned Soviet regulation, the Trade-Union committee exercises social supervision over the work of such state and co-operative, commercial and organized canteen enterprises, which are in the service of the workers and employees of the enterprise.

bb) Content of the right of supervision connected with production and management

In connection with the supervision of production, the legal rules are much more laconic. According to the Soviet rule speaking about the rights of Trade-Union committees, the Trade-Union committee directs the production conferences, holds general meetings, exercises a systematic supervision over the accepted decisions and the fulfilment of the proposals of workers and employees.⁶ According to the Labour Code of the GDR, the stewards and other organizational group-functionaries are entitled to make proposals within the sphere of their activity and take sides concerning the questions of management and planning, and to supervise the implementation of the labour-law provisions.

b) Content of the right of supervision, due to the workers' collective

aa) The authority of the workers' collective comprises — in cases when the managing bodies of the enterprise are formed with the participation of workers and employees — through the bodies the whole activity of the enterprise. Thus, it contains the supervision of the implementation of the decisions, measures connected both with labour relations and with production and management. In detail:

According to the statutes of the Bulgarian state enterprises:

- I. The enterprisal general assembly of workers and employees accepts
- the annual account, speaking about the activity of the economic council and the work of the enterprise.
 - the draft of the organisational and functional statute,
 - the plans and the measures for the implementation of this.
- The role of the general assembly of the units is similar.⁷

⁶ Point 8. of SU TR U.

⁷ Art. 120. and 123. of Statut.

II. The economic council discusses and accepts the plans and measures concerning the production and the implementation of the plans, resp. accounts of the manager about the results of the economic activity.⁸

According to the Polish rules about the workers' self-management:

I. The general assembly of the workers and employees

— investigates the annual activity of the workers' council and of the manager.⁹

II. It falls within the competence of the workers' council, to exercise supervision over the economic and financial activity of the enterprise.¹⁰ It is due to the right of the suspension of the decision of the manager in the case determined by the Act on the workers' self — management. (The manager is due to the similar right concerning the decision of the workers' council.)¹¹

At the Rumanian enterprises:

I. The general assembly of workers' and employees:

— analyses the implementation of the programme, accepted for the approval and supervision of working norms,

— analyses the activity, performed for raising the qualitative level of products, in the interest of utilizing new technologies, new products, research-results,

— approves on the basis of balance the account on the activity of the unit and the collective managing organ.¹²

II. The workers' council:

— analyses the manner of running, conservation of fixed funds,

— analyses the formation of financial management and rentability,

— periodically analyses the fulfilment of the estimates of the collective agreement,

— analyses the realization of the measures, aiming at forming and improving the work and wage conditions of workers and employees,

— systematically analyses, how the executive bureau of the workers' council fulfils its tasks,

— analyses and lays before the workers' general assembly the way of fulfilling the technical-financial indices of the enterprise.¹³

bb) In the enterprises, not-mentioned before; the right to supervise the implementation of the collective agreement is generally due to the workers' collective.¹⁴ (This manifest itself in the above-mentioned enterprises, as well apart from the supervising activity of the managing bodies.) Besides this — as already mentioned — the GDR- and Hungarian rules ensure the right of supervising the production, as well. According to art. 19 of the Labour Code of the GDR, the manager of the enterprise is obliged to inform the workers' collective in due time on the fulfilment of the enterprisal tasks and the important questions. According to art. 10/A, sec. 2 of the Hungarian Code of Labour, the collective of workers and employees is authorized to supervise the important questions that fall within the competence of the management of the enterprise and affect the interests of management and the community.

⁸ Art. 117. and 121. of Statut.

⁹ Art. 10. of Self-management.

¹⁰ Art. 24—25. 28. of Self-management.

¹¹ Art. 40—41. of Self-management.

¹² Art. 62. points g—h) and k) of 1978:5.

¹³ Art. 35. points c—d), k), l), r) and s) of 1978:5.

¹⁴ See: footnote 4.

3. Manner, means of supervision

a) Three ways of supervision are generally to be found: partly the local, personal supervision, partly asking for the papers, documents to be sent in and surveying them and, finally, asking the person, responsible for the implementation, for written or oral information, account.

Essential conditions of the effectiveness of the local supervision are: the unimpeded entry, the supervision and, there, the placing at disposal of every necessary data, etc. Certain rules of law even particularly dispose of this. Thus, according to art. 131 of the Russian Labour Code, Trade Unions are authorized to visit and survey the workshops, industrial units, sections and other working places of the enterprise, institute, organization. Art. 24, sec. 2 of the Labour Code of the GDR authorizes the president of the enterprisal organ of the Trade Union, as well, to take part in the meetings of the management of the enterprise, to look into the enterprisal documents, including the personal papers, too. According to art. 14, sec. 1 of the Hungarian Labour Code, Trade Unions — in the interest of supervising the implementation of the rules concerning the living and working conditions of workers and employees — can conduct an inquiry at the employers. These are obliged to give the informations and make available the data that are necessary to the inquiry. (The right of supervision of the members of Trade Union who perform the the laboursafety supervision is regulated by particular provisions. On this I do not make any digression.)

According to art. 131 of the Russian Labour Code, in connection with asking for the papers, data, etc. to be sent in and with the oversight of these, Trade Unions are authorized to ask the management of the enterprise, for sending in the necessary documents, data and information and to supervise wage accountings. According to art. 201. of the Labour Code of the GDR, in connection with taking over the new or reconstructed working sites, it should be made possible that the leadership of the competent Trade Union can look into the corresponding scientific-technical working testimonials.

According to art. 230 of the Russian Labour Code, the enterprisal committee of the Trade Union asks the managers of the enterprise for rendering account of the fulfilment of the plan of production, the fulfilment of the measures to organize the labour and requires to terminate the detected failures and deficiencies. The Trade Unions, according to the Bulgarian rules concerning them, are authorized to ask the managers of enterprises for giving them information in connection with the measures taken or planned by the management connected with the implementation of the plan of production and the financial plan; i.e.: supply with raw materials, energy, equipments and matters, fulfilment of the building programme, concluding contracts with commercial organizations, keeping these contracts, etc.¹⁵ According to art. 292, sec. 2 or the Labour Code of the GDR, the presidia and leaderships of Trade Unions are entitled to ask the competent leaders for information and look in the certificates. According to art 23, the membership meetings of the Trade Union and the meeting of stewards are authorized, to ask the manager of the enterprise for information and account in connection with the development, resp. with the working and living conditions of workers and employees. This provision is completed in connection with safeguarding the workers' interests

¹⁵ 55/1958.

by art. 201. According to this, the leadership of the workshop Trade Unions is entitled to ask for information concerning the plans of the new working tools and working sites, resp. of those to be reconstructed, to take a part in this respect, to require the ensurance of safeguarding labour and health of workers and employees, and to submit proposals to continue improving these. According to the Hungarian rules, the manager of the enterprise is obliged to render account to workers and employees of every essential problem connected with the activity of the enterprise.¹⁶

In addition to these, the Labour Code of the GDR ensures the possibility of a special supervision in connection with the affairs of women and young people. According to art. 30, sec. 3, the manager of the enterprise is obliged to render account before the female workers and employees of the fulfilment of the plan how to assist women. According to art. 31, sec. 3, a similar obligation of rendering account before young people burdens the manager of the enterprise in connection and he is obliged, if asked for by the leadership of the Trade Union, to render account them, too, and to the Free German Youth Association.

In addition to these general rules, the manager of the enterprise is burdened in every country with the obligation of rendering account of the implementation of the collective agreement.¹⁷

b) The rules of law concerning supervision generally speak about the means, as well, to which Trade Unions, resp. the workers' collective may have recourse if it experiences any insufficiency. The following are most common:

— Drawing attention to the insufficiency, possibly also fixing a date. This is the disposition of the Soviet rule of law on the rights of Trade Unions,¹⁸ of art. 14, sec. 2 of the Hungarian Labour Code, the Bulgarian rule concerning the rights of Trade Unions, which particularly emphasizes that if the Trade Unions experience the violation of legal dispositions speaking about the arrangement of working norms and wages, the safeguarding of workers' interests and about the social-welfare questions, as well as the violation of duties and obligations, in connection with collective agreements and with the approved worker's proposals, they should make suitable decisions and in these fix a date for the management.¹⁹

— If the above-mentioned warning does not achieve success or the deficiency is very grave already from the outset, a corresponding calling to account may be initiated. Thus, according to art. 292 of the Labour Code of the GDR, in case of violating the provisions of labour law, the presidia and leaderships of Trade Unions may require the reestablishment of legality and that the responsible persons should be called to account, disciplinarily or materially, proceedings concerning contravention of rules should be started or other suitable educational measures should be carried out. The competent leader should communicate in writing within two months, what as a result of the demand of the Trade Union happened, resp. why it couldn't be satisfied. According to art. 14, sec. 2 of the Hungarian Labour Code, Trade Unions may initiate an adequate process if the measures, necessary to terminate the defi-

¹⁶ 1018/1977., Act No VII. of 1972.

¹⁷ See: footnote 4.

¹⁸ Point 7. of SU TR. U.

¹⁹ 55/1958.

ciencies, detected in the course of supervision, have in due time not been taken. The organ, conducting the process, is obliged to inform the Trade Union on the result.

— According to art. 14, sec. 3 of the Hungarian Labour Code, the enterprisal organ of the Trade Union may raise an objection (veto) against a measure of the employer that has violated the rules concerning the labour relations or the treatment, corresponding to the socialist morality. The measure objected to should not be implemented till the decision of the competent organ. (The organ, competent to decide, is in case of the grievance of more than one worker or employee or of the whole collective the supervisory organ of the enterprise and the superior organ of the Trade Union, and in an individual case the Court of Labour.)

— Special means, fine, the suspension of the activity of the workshop, etc. are due to the members of Trade Unions, exercising the supervision of labour-safety.

VI. GUARANTEES OF RIGHTS OF THE WORKERS' COLLECTIVE AND OF THE TRADE UNION

1. The circle of guarantees

The fundamental guarantee for that the workers' collective, resp. the Trade Union be able to participate in the management of the enterprise effectively, without restraint, is furnished by the development of the socialist democracy, and the social, political atmosphere on the basis of that. In addition to this, however, the determination of some legal guarantees is necessary, as well, which promote in the concrete cases the unhindered realization of the rights of the collective, resp. Trade Union.

Among legal guarantees we should speak of two scopes of subjects. These are, on the one hand: the display of functioning, activity, creation of the organisational, resp. material preconditions of this, and the protection by labour law of the persons displaying the activity; on the other hand: the solution of debates induced in the course of displaying the activity with the management of the enterprise or with the directing organ. The legal regulation in this scope is rather laconic. We only find an approximately satisfying organization in connection with the first group of guarantees. Connected with the question, mentioned in the second group, we meet only rather casual regulations, concerning only one or two questions. This area means for jurisprudence — primarily the theory of labour law — as well a blank area. The cause of this is mostly to be looked for in that this is a rather new phenomenon. The participation of the workers' collective and Trade Union in the guidance of the enterprise began a considerable development in the last one-two decades and is, even at present, in the state of seeking for ways and means.

2. Organizational, material preconditions and protection by labour law

The provisions of Labour Codes prescribe guarantees primarily in connection with the activity of Trade Unions and speak less about ensuring the activity of the workers' collective.

a) Guarantees of the activity of Trade Unions

aa) Obligation of co-operation

In connection with the activity of Trade Unions, the general obligation of state and economic organs, to assist Trade Unions, to co-operate with them, is prescribed in every Code. Thus, art. 95, sec. 3 of the Soviet basic principles of labour law prescribes that the state organs, enterprises, institutes, organiza-

tions are obliged to co-operate with Trade Unions in every way. According to art. 6, sec. 2 of the Labour Code of the GDR, every state organ, the organs guiding economy, and enterprise are obliged to promote the activity of Trade Unions and co-operate with them closely. This provision is completed by art. 27, according to which the manager of the enterprise and the co-workers in a managerial position ought to secure the work of the committees of Trade Unions, the work of the standing conference of production and of the active of renovators. At the request of the leaderships of the competent Trade Unions, they should participate in the conferences of the committees of Trade Unions and place at their disposal the documents needed to their activity. And according to art. 20, sec. 1, the manager of the enterprise ought to evaluate the suggestions and standpoints of the enterprisal organizations and organs, of the Trade Union, the proposals of the Free German Youth and of other enterprisal social organizations, as well as their standpoints. They should render account of the realization of proposals. If the proposals cannot be realized, or can but only at a later date, it should be justified. According to art. 11, sec. 2 of the Hungarian Labour Code, the state organs and employers are obliged to co-operate with Trade Unions, to promote their activity and to communicate their standpoints and the motivation of them concerning the comments and proposals of them. According to art. 170 of the Rumanian Labour Code, the managements of enterprises are obliged to assist the activity of Trade Unions, they ought to inquire into, and to solve, the proposals of Trade Unions, which aim at improving the activity of units and the working and living conditions of workers and employees.

bb) Safeguarding of the preconditions, which are necessary to activity

In certain laws safeguarding of money and other material conditions is prescribed, as well. Thus, according to art. 98, sec. 2 of the fundamental principles of labour law in the Soviet Union, the enterprises are obliged to place money at the disposal of the organs of Trade Unions for the purposes of educational mass work and physical training (sports). According to art. 22, sec. 3 of the Labour Code of the GDR, the enterprises should create the objective preconditions that are necessary to the activity of the enterprisal organs of Trade Unions. The financial assistance of Trade Unions is prescribed by the above-mentioned art. 170 of the Rumanian Labour Code, as well.

The Russian Labour Code, beyond the general provision, contains detailed measures to ensure the necessary premises and other objective conditions. According to art. 233, the enterprise is obliged to place gratis at the disposal of the Trade-Union committee the premises with full equipment and fittings, heating, lighting, tidying up and guarding, which are necessary to the work of the Trade-Union committee, as well as to holding the meetings of workers and employees. The management of enterprises places gratuitously to the disposal of the Trade-Union committee the necessary vehicles and the means of communication. And according to art. 234, the buildings, premises, furnitures, gardens and parks, as well as pioneer camps, which are necessary to the aims of cultural, popular educational, sport- and physical educational works to be done among workers and employees of the enterprise and the members of their families should be registered in the organisation of the enterprise and in their balance and be transferred gratuitously to the Trade-Union committee for use. The buildings, premises and furnitures, serving for

the enumerated aims and rented by the enterprise, should also be transferred gratuitously to the Trade-Union committee. The economic maintenance, renovation and repairs, heating and lighting, making tidy and guarding, as well as equipping and furnishing of the enumerated buildings, premises and equipments, as well as of pioneer camps, should be ensured at the expense of the enterprise, institute, organization.

cc) Labour-law protection

The labour-law protection of the labour relations of the Trade-Union office-bearers also belongs to the sphere of guarantees. In this sphere — it is only possible with the assent of the superior Trade Union:

- to give notice of the Trade-Union office-bearer's labour relations,¹
- or terminate it with immediate effect,²
- to move the office-bearer,³ resp. to establish the date of removal,⁴
- to assign the official to another working place⁵ or entrust him (her) with a work longer than one week, which falls outside the area of his (her) official functions,⁶
- to open disciplinary action against the office-bearer,⁷ resp. to impose a disciplinary punishment on him (her),⁸
- the office-bearer, applied to a changing working place can only assigned to another working place after the preliminary information of the superior Trade-Union organ.⁹

It is to be noted that the protection ensured in the Hungarian rules is due to the office-bearer even for two years following the termination of his (her) commission. It is an exception, if his (her) recall took place because of indignity.¹⁰ In connection with the discontinuation of labour relations, the protection mentioned in art. 38 of the Bulgarian Labour Code is due to the office-bearer for six months after the discontinuation of his (her) commission.

In connection with the protection of labour law, art. 46 of the Soviet fundamental principles of labour law is also worth mentioning. According to this, the workers and employees who, after being elected to an elective post in the state organs, as well as in the party, in Trade-Union, Komsomol, cooperative and other social organizations, were relieved of their work, after the period of commission terminated, are restored to their work or, in lack of this, obtain an equivalent work in the same or — with their consent — in another enterprise, institute, organization.

b) Guarantees ensured for the workers' collective

Guarantees are of three directions. They concern partly the creation of preconditions that are necessary to exercising the rights due to the collective,

¹ Art. 99. sec. 2. of SU principles, art. 38. of BLC, art. 26. sec. 1. of GLC, art. 16. of HLC, art. 39. of PLC, art. 132. sec. 1. of RLC.

² Art. 99. sec. 2. of SU principles, art. 38. of BLC, art. 26. sec. 2. of GLC, art. 16. of HLC, art. 52. sec. 4. of PLC.

³ Art. 99. sec. 1. of SU principles.

⁴ Art. 16. of HLC.

⁵ Art. 16. of HLC.

⁶ Art. 25. sec. 1. of GLC.

⁷ Art. 4. of implementing decree of HLC.

⁸ Art. 99. sec. 1. of SU principles.

⁹ Art. 16. of HLC.

¹⁰ Art. 4. of implementing decree of HLC.

partly they concern taking into consideration the comments, proposals of workers and employees and, at last, the labour-law protection of certain employees participating in the management of the enterprise.

aa) Ensuring of preconditions

According to art. 97, sec. 3 of the fundamental principles of the Soviet labour law, the management of the enterprises is obliged to create the preconditions that ensure the participation of workers and employees in the guidance of production. According to art. V of the introductory part of the Czechoslovak Labour Code, the socialist organizations are obliged to create and accomplish the preconditions, which promote the continuous enlarging of the participation of workers and employees in guiding production. Art. 21 of the Polish Labour Code contains essentially a similar provision, as well. The Labour Code of the GDR contains much wider provisions than the former Code. According to art 18, the manager of the enterprise directs the work of the enterprisal collective with the aim than the planned tasks of the enterprise be realized and, if aimed, overfulfilled, so that workers and employees get assistance in their development to socialist personalities and that their working and living conditions continuously improve. He (she) is responsible for that workers and employees evolve their capacities completely and form their work more and more effective, productive and corresponding to their own personal satisfaction and that their mentality should be plote-marked by the ideas of the working class. The manager of the workshop should promote the movement: „To work, learn and live in socialist manner” and should ensure that workers and employees can participate in an active way in management and planning and that the Trade Union can exercise the right of intervention completely. And according to art. 35, the manager of the enterprise is obliged to induce the effectivity of the socialist emulation directed by Trade Unions, and the preconditions ensuring the fulfilment of the aims of emulation. These are enumerated in the rules of the law.

According to the decision N° 1018/1977. (V. 7.) Mt. of the Hungarian Council of Ministers, the managers of the enterprises should continuously take care of the conditions of exercising workshop democracy. In the interest of this:-

— it should be ensured that workers and employees obtain information, in every case and in due time, on the most important tasks of production and management,

— there should be taken measures for that at the instances of workshop democracy, the managers who are well informed and authorized to decide, take, part,

— the causes that may keep workers and employees from expressing their opinions, should be detected and removed and every possible measure should be done in the interest of evolving initiations,

— care should be taken of that the proposals, raised at the instances of the workshop democracy, contain the variations of solution, coming really into consideration; care should be taken of intelligibility and that workers and employees have enough time for preparing themselves to the discussion.

According to the art. 30. of the Polish Act on Workers' Self — management the manager is obliged to ensure all possibilities for the workers' council to become acquainted the materials concerning the activity of the

enterprise and to inform the members of the council about the economical, social and legal consequences of the intended decision of the council. The manager is obliged to answer the remarks and proposals of the workers' council within two weeks.

bb) Taking into consideration the comments, proposals of workers and employees

According to art. 97, sec. 3 of the fundamental principles of labour law of the Soviet Union, the managers of the enterprises are obliged to go in due time into the critical remarks and proposals of workers and employees and inform them on the measures done. The Bulgarian rule concerning Trade Unions prescribes that the administrative and Trade-Union leaders should discuss as soon as possible the proposals of workers and employees and inform the workers and employees on the results of introducing these proposals, as well as on the causes of the possible rejection.¹¹ And according to art. 20, sec. 2 of the Labour Code of the GDR, as well, the leader of the workshop should evaluate the proposals and affairs of workers and employees and these should be utilized for improving the work. Concerning the treatment of the proposals and affairs of workers and employees, the rules of law speaking about petitions are valid. According to the Hungarian rules, the managers of enterprises are obliged to take care of validating the standpoints of the instances of the workshop democracy, as well as of that the real proposals, comments, arisen at the deliberations, should be realized, and even those which cannot be realized, do not remain without any answer. Of the discussions, records should be made, and to the presented comments, proposals answers should be given within 15 days.¹² According to art. 21 of the Rumanian Labour Code, the managers of socialist units should carefully analyze and follow with attention the comment and proposals of workers and employees, for improving the activity in every unit and they should be informed on the way of settlement. According to the art. 30. of the Polish Act on the workers' self — management the duty of the manager to ensure for the organs of the workers' self — management convenient premises and other means necessary for their functioning.

cc) Labour-law protection

According to the regulation concerning the Bulgarian state enterprises, the labour-law protection of the Trade-Union office-bearers is due to the members of the economic committee, as well.¹³ According to the Polish rules concerning the workers' self-government, the labour relations of a member of the workers' council cannot be noticed by the enterprise without the approval of the workers' council, and it cannot be dissolved either, except if it is such a case, in which the enterprise is entitled to dissolve the labour relation without notice. The management cannot modify disadvantageously the working conditions and the wage of the member without the approval of the workers' council. This protection exists during his mandate and in the course of one year after its terminate, too.¹⁴

¹¹ 55/1958.

¹² Point 6. of 1018/1977.

¹³ Art. 121. of Statut.

¹⁴ Art. 6. of Self-management.

3. Decision of disputes

a) The disputes, falling within this scope, can take place owing to three causes. On the one hand, the management of the enterprise does not ensure the organizational and material conditions, treated above, which are necessary to display the activity of the workers' collective, resp. of the Trade Union. On the other hand, the management of the enterprise prevents the Trade Union or the collective from practically exercising the rights, guaranteed to them in a rule of law or in the inner statutes of the enterprise. At last, a dispute may arise between the management of the enterprise and the collective or the Trade Union in the course of making a certain decision, or taking a measure. The disputes, which take place in case of omission (or not duly fulfilling) of a right or benefit that was due to a certain worker, workers' group or the whole collective of the enterprise on the basis of the rules concerning labour relations, do not fall within this scope. These fall within the scope of labour controversies in the strict sense of the word and fall outside the framework of this monograph.

b) The present-day legal regulation is showing the following picture:

aa) The Soviet rules contain the following provisions:

— The debates, coming into being in the course of concluding the collective agreement between the management of the enterprise and the Trade Union, are decided by the superior economic and Trade-Union organs with the participation of parties. According to the implementing dispositions, the decision should be made within a fortnight and fixed in a record.¹⁵

— According to the Russian Labour Code, the superior organ of the enterprise, as well as the superior organ of the Trade-Union committee decide jointly between the management of the enterprise and the Trade-Union Committee in debates taking place about establishment or oversight of output norms, service-norms.¹⁶

— The superior organ of the enterprise and the superior Trade-Union organ decide in case of divergence of views formed between the Trade-Union committee and the management in the question of establishing or modifying the working conditions of the enterprise.¹⁷

— The debates, taking place between the workers and employees of the enterprise and the management about establishing new working conditions that were not regulated by an act or other labour-law rule or in connection with the modification of the valid working conditions, are decided by the management with the consent of the enterprisal committee of the Trade Union; if the management and the Trade-Union committee cannot come to understanding, the debate will be decided by the superior economic and Trade-Union organs.¹⁸

bb) The Bulgarian rules arrange two cases:

— The rules concerning the rights of the Bulgarian Trade Unions establish two general rules concerning the decision of contested questions, arising be-

¹⁵ Decision No II. 18/334. of the Committee for Wages and Labour of the Council of Ministers of USSR and the National Council of Trade Unions.

¹⁶ Art. 109.

¹⁷ Art. 223. of RusLC.

¹⁸ Art. 223. of RusLC.

tween the management of the enterprise and the Trade-Union organs. In a contested question, like this, on the motion of the interested party, the superior organs of the enterprise and of the Trade Union decide. As long as the superior organs do not make any decision in the contested question, the decisions of the management of the enterprise are valid.¹⁹

— The disposition of the statutes of the Bulgarian state enterprises is similar. According to this, the Trade-Union committee, functioning beside the enterprise, resp. some unit of that, can prevent the organs and persons, directing the enterprise, resp. the unit, from implementing their injurious decisions and measures, which affect the safeguarding of workers and employees and the division of social funds, in the way that it submits the question for decision to the competent superior state- or Trade-Union organs.²⁰

cc) In the Hungarian rules, the arrangement of two cases is to be found:

— One of these is — in connection with the supervisory competence — connected with the above-mentioned right of veto.²¹ Though the veto wanted primarily to serve the enforcement of rights arising from labour relations, it is not at all excluded that the Trade Union uses this means even if the enterprisal decision, measure, which violates the rule of law or the treatment corresponding to the socialist labour morality, arises in the course of exercising its rights connected with its participation in guiding the enterprise. In such a case the superior organ of the enterprise decides, together with the superior organ of the Trade Union. In an individual case, the decision falls within the competence of the Court of Labour.²²

— The second disposition is connected with the modification of the injurious disposition of the collective agreement. If such a reporting has got to the enterprise, according to which a disposition of the collective agreement is injurious, it is obliged to investigate into this, together with the Trade Union. If this report proves to be true, the collective agreement should be modified, according to the rules concerning this. If, however, there is no mutual understanding in respect of reporting — and it belongs here also if there is no agreement between the enterprise and the Trade Union — the superior organ of the enterprise decides in the question, together with the superior Trade-Union organ.²³

dd) The Polish act of 25 September 1981 provides in detail about the details of debates arisen between the workers' council and the manager of the enterprise.

These disputes would be judged by an arbitration — committee. The members of the committee are the representation of the workers' council and the representation of the manager, the chairman is a lawyer invited jointly by the workers' council and the manager. The workers' council as well as the manager can appeal to the court, if the decision of the committee is not acceptable or the committee could not make a decision.

In connection with disputes, it is also to be referred to the Polish rule, which takes measures about the disputes between the floater organ or the

¹⁹ 55/1958.

²⁰ Art. 125.

²¹ See Chapt. V.

²² Art. 3. of implementing decree of HLC.

²³ Art. 7. sec. 2. of decree No 20/1979. (XII. 1.) MüM.

supervisory organ of the enterprise and the workers' council, resp. the manager. These latter are due of the right to set up a contrary opinion against the decision of the floater, resp. supervisory organ. If the contrary opinion would be left out of consideration, the workers' council, resp. the manager may appeal to the court.²⁴

ee) According to the Czechoslovak rules, the debates arising from the non-fulfilment of the obligations, falling on the enterprise from the collective agreement between the management of the enterprise and the Trade-Union committee, are decided by the superior Trade-Union organ and the supervisory organ of the enterprise in agreement.²⁵ In my opinion, this provision concerns rather the rights, benefits, which are due to workers and employees on the basis of the collective agreement.

c) The picture of the situation is clearly showing that the question is unregulated. The present-day solutions refer to that, as a step in principle, it would be advisable to declare everywhere generally that in the debates, connected with the rights of the workers' collective and of the Trade Union concerning the direction of the enterprise, the decision falls within the competence of the Labour Courts.

²⁴ Art. 45—46. of Self-management.

²⁵ Art. 56—57. of Act 1981.

²⁶ Directives No 103. of the Council of Ministers of Czechoslovak Socialist Republic and the National Council of Trade Unions.

**A SZEGEDI JÓZSEF ATTILA TUDOMÁNYEGYETEM
ALLAM- ÉS JOGTUDOMÁNYI KARÁNAK E SZOROZATBAN
ÚJABBAN MEGJELENT KIADVÁNYAI**

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