

# Prospects for BLER Development in the New Countries of the EU

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## Abstract

The objective of the article is to determine the prospects for the development of BLER (board-level employee representation) in the new EU countries. To achieve this goal, a critical analysis of the literature on the subject and relevant legal regulations was used. In the old countries of the EU, employee representation in corporate governance bodies has a well-established position. It is generally supported by trade unions, as well as employers and their organizations. In the new EU countries, however, the situation is different. Half of these countries do not have such representation based on legal legislation. In the remaining countries, the results of the transformation period included solutions modeled on Western countries, mainly on the German experience. In the following years, however, mainly due to the 2007–2008 global financial crisis, the scope of such representation was gradually curbed. Thus, the transformation was not followed by this type of solution taking root.

Employee representation in corporate governance bodies is an important element of the democratization of labor relations, and it usually brings tangible benefits to enterprises. Therefore, it is becoming extremely important to popularize it in the new EU countries. The considerations in the article lead to the conclusion that in the near future, these countries will not be able to popularize such solutions on their own; hence, the proposal to develop an appropriate EU Directive obliging member states to popularize such solutions on mandatory principles. The chances of developing such a Directive significantly increased after the United Kingdom left the EU.

Of the 14 countries under consideration, as many as 9 are post-communist countries and we will devote most of our attention to them in this article.

**Keywords:** corporate governance, BLER, employee participation, trade unions, European Union

**JEL:** G34, J53, J83



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## Introduction

In post-communist countries, the changes in the political system, which were accompanied by changes in the economic system in the late 1980s and early 1990s, also influenced changes in industrial relations. In these countries, employees had some forms of influence on the company's activities, although this influence was often merely illusory and exercised under the control of the communist parties. The systemic changes meant that, in the initial period, the previous regulations ceased to apply while new ones had not yet appeared. However, new industrial relations were soon developed based on existing patterns from other countries (Soulsby, Hollinshead, and Steger 2017).

During the transformation period, there were attempts to adapt Western methods, both in privatized companies and in those created from scratch. However, these attempts were not always successful, and the adaptations were and still are confronted with serious difficulties (Hyman 2018). The decisive factor involved the conditions that had existed previously in particular countries, and that appeared at the beginning of the transformation. Due to a lack of other options, these post-communist countries built their competitiveness on cheap labor, and this competitiveness required that wages and labor standards be kept low. They were also the main factors that attracted foreign direct investment to these countries. This approach left no room for strong trade unions to represent employees' interests (Mrozowicki 2014). The new political class, which originated mainly from former opposition organizations and included trade union activists, quickly forgot about the employees and began to represent the interests of employers, who gained a strong position in the new conditions. The decline in the position of trade unions also resulted from the abrupt introduction of free market conditions, increasing unemployment, worsening living standards, and intensifying work (Korkut et al. 2016).

The position of trade unions in the post-communist countries was clearly differentiated. Here, significant differences between the "people's democratic" countries and former republics of the USSR can be pointed out (Leszczyński 2015). In the former (Bulgaria, Czechia, Hungary, Poland, Romania and Slovakia), trade unions were significantly stronger, although not necessarily more numerous. They possessed what could be called trade union awareness and conducted dialogue with employers. In the latter (Estonia, Latvia and Lithuania), however, the position of trade unions was much weaker, especially in relation to employers' organizations. As people often lacked trade union awareness during the transformation period, they were perceived as a vestige of the communist system.

This position of trade unions had a significant impact on the scope of employee representation in corporate governance bodies. Such representation constitutes an important element of labor relations in the old countries of the EU. It is included in indirect forms of participation because employees elect representatives to the company's strategic decision-making bodies. It is the representation of the staff in these bodies itself that is the essence of BLER (board-level employee representation). In the Western literature, BLER means "employee representation in any supervision model, as long as employees have the right to representation in the company's strategic decision-making body" (Munkholm

2018, p. 1). Staff representatives usually have the same rights and responsibilities as other board members, and they usually receive remuneration similar to other board members. In the West, they are often called workers' directors.

Employee representation in company bodies has a well-established position in the old countries of the EU, often dating back to the 1970s. Employee representatives typically serve on supervisory boards and less often on company management boards. They usually constitute 1/3 of the board. However, Germany is unique in that they are members of the board on a parity basis in large enterprises; they are accepted by both employees (trade unions) and employers. Research indicates a number of positive results that such representation brings both to employees and the company, including that staff representatives in company bodies usually help improve the company's economic results (Kim, Maug, and Schneider 2018) and impact company value in various phases of the business cycle (Kleinknecht 2015). They also extend the decision-making time horizon (Smith 1991), including long-term investments (Waddington and Conchon 2016), facilitating smoother passage through crises and a higher sustainable development index (Jackson and Petraki 2011). Furthermore, employee representation enhances the monitoring of managers (Conchon, Gold, and Kluge 2010) and increases corporate social responsibility (Gelter 2016). Recent research has additionally shown that high employee representation on the board helps prevent tax avoidance strategies (Vitols 2021).

This study aims to determine the prospects for the development of BLER in the new countries of the EU. It starts by identifying the scope of BLER in the mentioned countries before analyzing how it developed from the beginning of the political/economic transformation to the present. The subsequent stages of BLER implementation are presented against the background of the accompanying and changing political, economic, and social conditions.

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## The scope of BLER in the new countries of the EU

The scope of BLER in the new EU countries is both varied and very modest. Only in seven of the fourteen countries that joined the EU in 2004 and later does employee representation in company bodies have a legislative basis. In Munkholm's (2018) classification of the EU countries according to the scope of BLER, Slovakia and Hungary were in Category IV, the highest category. Croatia, Czechia, Finland, and Slovakia are included in Category III, while Poland finds itself in Category II, where BLER is limited to public companies and some private companies. Thus, it transpires that even in countries where legislation guarantees the participation of employee representatives in corporate governance, this participation is very diverse and generally modest.

BLER legislation does not exist in Bulgaria, Cyprus, Estonia, Lithuania, Latvia, Malta, or Romania. Of course, it does not mean that such representation does not exist there at all. It may occur in individual enterprises on a voluntary basis if initiatives in this area are accepted by both employers and employees (trade unions). In this case, they usually take the form of collective agreements or other types of bilateral agreements.

The weakness of BLER in the first group of countries may be evidenced by the lack of a stable legal framework that was created at the beginning of the transformation. More than 30 years after the beginning of the transformation, it is clear that BLER has not taken root in the organizational structures of enterprises and, more precisely, in corporate governance structures (Zybała 2019). This is evidenced by the continually changing regulations pertaining to corporate governance. Typically, they not only fail to strengthen the position of BLER, but they often weaken it or lead to attempts to eliminate it.

The beginning of the transformation was particularly important here when privatization and the creation of new enterprises intensified. A new political class was also being born. New rules for the economy, including the way enterprises function, were developed from scratch. Existing Western patterns were used, with German, American, and Scandinavian ones being the most important. Individual countries used these patterns to varying degrees, which is why different varieties of BLER can be found. The German model, which was used by Hungary and the former Czechoslovakia, proved to be the most effective (Yeoh 2007, pp. 57–75). Initially, mainly due to the strong involvement of American trade unions, the American model was also popularized, especially in Poland and Romania, although the Scandinavian model, which was supported mainly by the intellectual elites, was also widely discussed in Poland. However, it was not applied as the mentality of Polish employers and Polish trade unions differed significantly from their Scandinavian counterparts.

The main reason for the weak establishment of BLER in the legal provisions of the post-communist countries was the lack of political will of the new authorities, which mainly originated from opposition circles and included trade union leaders. The new trade unions generally distanced themselves from other forms of employee representation, which they saw as competition. This may explain the resistance of trade unions in adopting solutions regarding BLER. It was also influenced by the way changes were implemented in individual countries, including the way the privatization was carried out, for example, voucher privatization in Czechoslovakia, managerial privatization in Hungary, or shock therapy in Poland. Each country created its own, usually unique solutions regarding the scope of BLER, including the number of employee representatives in company bodies, how these people were elected, and their decision-making powers.

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## Phases of BLER development

The development of BLER in the new EU countries can generally be divided into two stages. The first one falls on the last decade of the 20<sup>th</sup> century, i.e. at the beginning of the transformation in post-communist countries, and ended with the global financial crisis (GFC) of 2007–2008, although it occurred much earlier in some countries. The second stage mainly concerns the changes that resulted from the crisis and that continue to the present day.

The scope of employee participation in individual countries at the time of change in the political and economic system influenced the first stage of BLER development. The level of advancement in such participation impacted the solutions regarding BLER during

the initial period of the transformation (Stollt and Kluge 2006). For example, in Hungary, enterprise boards with a high representation of employees of 50% appeared as early as 1988. A two-level corporate governance structure was also introduced, with a supervisory board and the company's management board. In companies with over 200 employees, they were able to elect 1/3 of the board members (Neumann 2018). These changes clearly referenced the German model of corporate governance, with only minor adjustments made in this respect in 1992 and 1997 during the initial transformation period.

As mentioned above, BLER had a legislative basis in only seven countries, albeit the scope of representation was diverse (Kohl and Platzer 2004). Commercial codes, laws on enterprises, and other laws constituted the basis for employee representation in company bodies. Most often, they ensured employee representation on supervisory boards at 1/3 of the board's composition, a level that dominates in the old countries of the EU. In Czechia, Slovakia, and Slovenia, company articles of association might extend such representation to 50% of the board. In Slovenia, until 2000, in companies employing more than 1,000 people, employee representatives constituted half of the board. However, the chairman of the supervisory board was always a representative of the shareholders and also had a casting vote in the event of an equal number of votes.

A much more modest range of BLER occurs in Poland. The Commercial Code that was in force until 2000 did not provide for such representation, nor did the Commercial Companies Code that replaced it. The obligatory nature of the participation of employees' representatives in company supervisory boards has been provided for by privatization laws since 1990. The first law, of July 1990, guaranteed employee representatives 1/3 of the seats on the supervisory board of companies wholly owned by the State Treasury; such participation was intended to overcome their resistance to privatization (*Ustawa o prywatyzacji przedsiębiorstw państwowych*). This level of participation was guaranteed only until the state sold more than half of the shares.

The second law, of August 1996, provided for two-person employee representation in a five-person supervisory board (*Ustawa o komercjalizacji i prywatyzacji przedsiębiorstw państwowych*). The main difference from the previous one was that such representation would not disappear, even if the state sold all its shares to private investors. The Law defines the scope of such representation as 2 to 4 people, depending on the size of the council. The law, therefore, causes considerable confusion in matters of supervision, obliging privatized companies to retain employee representatives on their boards while other companies do not have such an obligation.

The countries also differed regarding the size of the enterprise that would entitle employees to have representation on the board (Stollt and Kluge 2006). In Slovakia and Czechia, it applied to enterprises with at least 50 employees, while in Hungary, the minimum was 200 employees. In Slovenia, employees theoretically (but also practically) had the right to such representation in all companies with a supervisory board. The law specified that such a council should be established in a company that met one of the following criteria: their share capital exceeded €1.7 million, the company employed more than 500 employees, its shares were publicly traded, or if the company had more than 100 shareholders. As a result, almost all companies had supervisory boards.

These countries differed significantly in the way that workers' representatives were elected to supervisory boards (*Worker Representation...* 2005). In Czechia and Slovakia, they were elected by the staff in general elections. Trade unions and employees had the right to nominate candidates (10% of signatures). In Czechia, the company's management and the works council also had this right. A representative of a trade union organization who was not a company employee could become a member of the board. However, in state-owned enterprises, only a company employee could be elected to the board. The banking sector was given special treatment in Czechia, since the Banking Law already provided for employee representation on the management board.

A different method of selecting staff representatives existed in Hungary and Slovenia, where selection was carried out by the works council (European Commission 2005). In Hungary, workers' representatives were nominated by works councils or central works councils. In each case, however, they were obliged to listen to the opinions of trade unions. Formally, workers' representatives were appointed by the general meeting of shareholders (shareholders' meeting), which was obliged to appoint candidates if they met the formal requirements. As a result, employee representatives were mainly official activists of works councils and trade unions. In Slovenia, employee representatives on the council were also appointed and dismissed by the works council.

Staff representatives on supervisory boards had the same rights and obligations as other board members, and this related both to private and state-owned enterprises. In Slovenia, in enterprises employing over 500 employees, the works council nominated a worker director who, after obtaining the approval of the supervisory board, became a member of the management board. The director was a member of the management board responsible for staff social matters and human resources management.

The second stage of BLER development took place at the beginning of the 20<sup>th</sup> century, with more significant changes occurring following the GFC. These changes included a decline in trade union memberships, limitations to the scope of collective agreements, and their impact on public policy being marginalized, to name but a few (Ivlevs and Veliziotis 2017). The new EU countries felt the effects of the crisis less than Western countries, which may be related to the lack of integration these countries had with global capitalism (Hyman 2018).

In almost all of the countries analyzed, either the BLER situation deteriorated, or attempts were made to move in this direction. In Slovenia, in 2001, the provision on the parity of the supervisory board was repealed based on the interpretation of the Constitutional Tribunal. Since then, staff representation has constituted 1/3 of the board.

Severe restrictions on BLER were also made in Hungary. The 2006 legal regulations replaced the obligation for employee representation on company supervisory boards by moving decisions on this matter to an agreement between the works council and company management. This meant that the works council could waive employee representation on the supervisory board. At the same time, the mandatory dualistic model of corporate governance was abandoned. As a result, many companies stopped having a supervisory board, automatically

eliminating BLER. However, it should be added that previous regulations had never been fully respected. It is estimated that fewer than 50% of companies obliged to have employees as members of supervisory boards met such requirements. The Law of 2012 further restricted BLER by stipulating that the supervisory board could function without employee representatives (Neumann 2018).

Changes in Czechia followed the same direction. The legal solutions of 1991 that had been favorable to BLER did not translate into practical results. Companies rarely had supervisory boards, and therefore, employees were rarely represented on the company's supervisory bodies. Additionally, employee representatives were often managers. A greater share of employee representatives did occur in the mining industry. However, the provisions lasted only until 2012, when the right-wing government amended the Commercial Code, abolishing the obligation of employee representation in supervisory authorities. This did not apply to state-owned companies, however. Employee representation on supervisory boards was restored in 2017, although this time, the requirement for such representation applied to companies with more than 500 employees. Staff representatives were supposed to constitute 1/3 of the board. Additionally, companies were able to use a monistic model of corporate governance, i.e., without a supervisory board. For many companies, this change in the supervision model was dictated by the desire to get rid of employee representation.

The situation is different in Slovakia, where the regulations regarding BLER have not changed. Considering the universality of BLER regulations and the low threshold for companies obliged to include employees on the board (50), Slovakia has the widest BLER coverage among the studied countries. In practice, however, the enforcement of these regulations leaves much to be desired. It is estimated that 1/4 of companies do not fully comply with the regulations, e.g., by limiting the number of employee representatives on boards. It can be added that the powers of Slovak supervisory boards are quite limited (Kluge and Stollt 2006, p. 91).

The rules regarding BLER in Poland have also not changed, although an attempt to eliminate them was made in 2010. This occurred during a period when the number of companies with BLER was systematically decreasing, mainly due to privatization efforts implemented under the Law of 1991. In most cases, employee representatives were removed from boards once 50% of the shares were sold. Therefore, it can be stated that the scope of BLER in Poland is the weakest among the seven countries. The latest research shows that staff representatives are on supervisory bodies in fewer than 200 enterprises in Poland. Their participation is so marginal that BLER is not present in the wider awareness of social partners (Owczarek, Pańków, and Pławecka 2021, p. 26).

It should not come as a surprise that the GFC negatively impacted BLER in most new EU countries. Crises often lead to increased economic difficulties, including the decline of many enterprises<sup>1</sup>. In such situations, employers tend to adopt more rigid attitudes towards employees, which is often reflected in a reduced influence of employees on decision-making.

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1 The crisis also negatively affected the work relationships in the old EU countries. Although no reduction in indirect participation took place, collective negotiations clearly suffered (Johnstone, Saridakis, and Wilkinson 2019).

Employers' organizations usually exert influence on national authorities to legalize statutory limitations on employees' rights in managing the enterprise. This trend can be viewed as a general pattern; however, it does not apply uniformly across all countries and may manifest to varying degrees.

The considerations outlined above have been summarized in Table 1, which lists the analyzed countries based on the current strength of employee representation in supervisory bodies and the supervision models used. The strength of employee representation is divided into three categories: (2), (1) and (0)<sup>2</sup>.

- Category (2) includes countries with the highest level of employee authority in corporate governance, which is statutory and applies to both public and private enterprises.
- Category (1) includes countries where employee authority is limited to either private companies or state-owned companies.
- Category (0) refers to countries that lack a legal framework for employee representation in supervisory authorities. Such representation can only occur on a voluntary basis.

The supervision models presented in the table include dualistic, monistic and mixed approaches. The mixed model is emerging as the predominant approach in the analyzed countries.

**Table 1.** Employee representation in supervisory bodies in the new EU countries

Model of Supervision	Position of the representation	Countries
Dualistic Model	2	Slovakia
	1	Poland
	0	Estonia, Latvia
Monistic Model	2	-
	1	-
	0	Cyprus, Malta
Mixed Model	2	Finland, Slovenia, Croatia, Hungary, Czechia
	1	-
	0	Lithuania, Romania, Bulgaria

Source: author's elaboration based on Skorupińska-Cieślak 2021, p. 227.

<sup>2</sup> The literature also divides EU countries into a larger number of categories from the perspective of staff representation in corporate governance. For example, Waddington and Conchon (2016) proposed four categories while Gold and Waddington (2019) proposed five.



## The perspectives of introducing BLER in the remaining new EU countries

The declining participation of employee representatives in supervisory bodies is evident in Cyprus and Malta, almost exclusively affecting state-owned enterprises. Both countries use a monistic governance model with a board of directors, yet they lack legislation that mandates employee representation on these boards. In Cyprus, high-level trade union representatives sporadically serve on the boards of directors of state-owned companies. In Malta, such participation is limited to 11–13 mainly state-owned enterprises and is declining due to privatization. In these enterprises, staff representatives have the same rights and obligations as other directors.

In Estonia, Latvia, and Lithuania, employee representation in supervisory bodies is virtually non-existent. This absence may be surprising in Estonia, which follows a dualistic supervision model. Although there is no legal requirement for such representation, it can still exist in individual companies through collective agreements. So far, however, companies have rarely used this option, largely due to the strong opposition from employers' organizations that argue that the presence of employees on the board would disrupt operations. While trade union organizations support staff representation, they remain too weak to make fundamental changes in this area.

The situation is even worse in Latvia, where the position of trade unions has declined significantly since the country gained independence in 1991, especially in private companies. The diminished status of trade unions means that collective agreements at the industry level are practically non-existent. Therefore, it is not possible to establish employee representation there. Consequently, employee representation on supervisory boards of companies is not even taken into consideration.

A different situation occurs in Lithuania, where companies can choose between a monistic and dualistic supervision model. Although no legal regulations are currently in place in this area, they did exist at the beginning of the transformation. Between 1990 and 1994, the Law on State-owned Enterprises gave employees the right to appoint up to 2/3 of the supervisory board. However, the employees were not prepared for this role, leading to a negative reception from both employers and, importantly, employees. Consequently, legislation was amended to eliminate employee representation on supervisory boards, and there is no foreseeable opportunity for its reintroduction in the near future.

BLER is also absent in Bulgaria and Romania. In Bulgaria, staff representatives can attend shareholders' meetings, although only with an advisory vote. In Romania, trade union representatives have the right to participate in management board meetings to discuss professional, economic, social and sporting issues. Again, their vote is only advisory (Skorupińska-Cieślak 2023, p. 61).

## Reasons for the weakening position of BLER in the new EU countries

The analysis of the reasons for the waning position of BLER in the post-communist countries begins with an examination of their political, social and economic contexts before the political and economic transformation. These contexts varied greatly, with the most pronounced differences observed between the former Soviet republics and the people's democratic countries. In all cases, however, economic and social relations were dominated by communist parties, characterized by almost universal trade union membership and almost 100% turnout in parliamentary elections. During this period, the management of the politicized trade unions engaged with management on social matters rather than on working conditions (Zybała 2019). In some of the studied countries, changes began to emerge in the late 1980s; economic difficulties prompted democratization in the workplace, notably in Hungary and Poland.

In all post-communist countries, the beginning of the transformation brought a decline in membership and, therefore, in the position of trade unions, resulting in fewer collective agreements and reduced impact on public policy. These changes are closely linked to democratization efforts and accession to the EU. Membership in trade unions ceased to be compulsory, leading to significant declines in union participation; entire sectors of the economy became union-free in some countries. Between 1995 and 2016, a dramatic decline in unionization was observed, falling from approximately 60–70% to approximately 10–12% (Zybała 2019, p. 267). Trade unions were often viewed as remnants of the communist system, which discouraged employees from considering union membership. Trade union activists were also to blame, unable to change their outlooks or modernize the unions. As a result, they increasingly failed to represent the emerging new working class with its aspirations and needs.

The change in the political and economic system, as well as the associated privatization, resulted in increased employee empowerment, giving them the opportunity to participate in decisions. However, this occurred in only a few countries. Generally, there was little interest in this shift from employers and their organizations, trade unions, or the employees themselves. The emerging political class also showed a lack of interest.

Employers were happy to reclaim power within their enterprises after years of being constrained by party committees. In communist economies, the most important decisions were made externally and dictated by central plans, meaning enterprises had no control over production types or volumes, raw material purchases, or the sale of finished products. Additionally, important personnel decisions were made outside the company. Therefore, after regaining power, employers were reluctant to share it with employees (Rudolf 2008).

Trade unions were also not interested in employee participation in management. As mentioned earlier, they saw BLER as competition and tried to maintain a monopoly on employee representation. This led them to oppose other forms of representation. Their stance contrasted significantly with that of most trade unions in the West, which are the main advocates

for the development of BLER<sup>3</sup>. This was confirmed by Zybala's (2019) research on the Visegrad countries. Trade union members unanimously stated that the development of BLER was not a priority and that they focused on issues related to wages, employment, and working conditions.

Initiatives of the European Federation of Trade Unions aimed at changing this traditional mindset largely fell short. This mindset was evident in the implementation of the EU Directive on works councils. Under pressure from national trade unions, individual countries often adopted the minimum conditions set out in the Directive. Poland serves as a particularly illustrative example, where works councils were initially subordinated to trade unions<sup>4</sup>.

However, it is difficult to agree with Waddington and Conchon (2016) that the weakening position of trade unions did not have a major impact on the decline in the scope and position of BLER in the countries of Central and Eastern Europe.

Employees themselves were not interested in participating in decision-making. This can be attributed to both the relatively low level of education of employees, especially during the initial period of transformation, and the lack of preparation for work in supervisory authorities, as employees has practically no involvement in decision-making during the communist era. Under these conditions, establishing BLER, especially given its wide scope, was likely to end in failure, as seen in Lithuania. The combination of low education levels, declining living standards, and job uncertainty meant that employment and fair pay were top priorities for workers. Strikes during the early transformation period primarily focused on these demands.

The lack of interest in participation can also be explained by employees' negative attitudes towards employers. Often influenced by trade unions, employees viewed involvement in company activities and decision-making as merely assisting the managers, who were already paid to run the company. This mindset excluded employees from engaging in problem-solving within the company. In contrast, Western countries embraced the view that both employees and management were "in the same boat" and everyone would lose their jobs if the company went bankrupt.

Focusing on the economic transformation, the political class that emerged from opposition and trade unions also did not treat BLER's problems as a priority. Moreover, there was no bottom-up pressure to introduce representative solutions. Employee demands were mainly

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3 British trade unions are an exception here, since they approached the corporate governance reform introduced in 2018 granting employee participation in the management without enthusiasm. The reform did not bring expected results, and the blame for the failure of the reform was put by its authors on the very lack of involvement of the trade unions (Villiers 2021).

4 The first law passed by the Sejm in 2006 granted trade unions with the right to elect the members of the board wherever such unions existed. In case there were no unions, the candidates for the board had to get the support of at least 10% of the staff. In case of trade unions having been established in such an enterprise, the board was dissolved and the trade unions elected a new board. The Constitutional Tribunal ordered for the change of some of the provisions of the law to be made. The Sejm amended the law in 2009. By virtue of the law, the whole staff elects the members of the board (Rudolf and Skorupińska 2012, pp. 26–27).

aimed at improving living conditions and increasing employment, not at changing company management structures. As a result, a participation vacuum was created: previously existing forms of participation disappeared without new ones taking their place. This vacuum may also be related to the dominance of small and medium-sized enterprises in Central and Eastern Europe, where staff representation was usually less common, as well as the extensive gray economy (Williams 2015).

Tomasek (2022) highlights another problem of such representation. Staff members on supervisory or management boards can expect much higher remuneration than before, making them interested in serving on the council for as long as possible. Therefore, they are anxious to cultivate good relations both with other council members and with the management, whose proposals they usually support to secure future recommendations for re-election. Management may emphasize their “constructive” cooperation, which could mean that they do not necessarily represent their constituents, i.e., employees.

This observation was confirmed by Zybała (2019), where one respondent stated, “If an employee-representative joins the supervisory board, he or she is more willing to play the role of a manager than a ‘real’ employee representative.” To avoid such a situation, their cooperation with both employees and trade unions is important. Cooperating with the trade unions, in particular, can provide them with an appropriate position on the board, access to necessary information, and other support. However, this approach requires the support of trade unions for BLER (Tomasek 2022).

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## Summary

The above considerations provide information on the BLER situation in the new EU countries. They also show observable trends in this area, which unfortunately do not paint an optimistic picture. Over the past 30 years since the beginning of the transformation and 20 years since most of the studied countries acceded to the EU, BLER has not taken root in these countries. While there were initially promising developments in some countries, subsequent years brought regression that continues to this day. Many of these countries not only failed to implement BLER but also neglected to initiate discussions about it. Thus, hopes for the gradual spread of BLER have proven to be in vain.

This situation can be partially attributed to failed attempts to standardize staff representation on supervisory bodies across the EU (Rudolf 2020). Initially, the climate for harmonizing BLER legislation was quite favorable. Until 1972, three of the then six member states, namely France, Germany and the Netherlands, supported this process. This period was the most conducive for such harmonization; however, the necessary determination to achieve this goal was lacking.

The situation became more complicated after the United Kingdom joined the EU. An attempt was made to standardize BLER when preparing the Social Charter of the European Community, signed in Strasbourg in 1989. However, the UK did not sign it, meaning that it was

not included in the Treaty of Rome. Instead, the principles of the Charter were incorporated into the Maastricht Treaty of 1992 as a Protocol and an Agreement on Social Policy was attached. Unfortunately, the Charter lacked binding authority, and its provisions were not enforceable. As a result, countries joining the EU did not have to align their corporate governance systems with the European BLER.

Current prospects for the development of BLER in the new EU countries are not very optimistic, at least in the near future. The analysis presented in the article shows that most of these countries have no chance of introducing such solutions on their own. Employers and their organizations, as well as the political class, are against them. Additionally, weakening trade unions are not enthusiastic, seeing BLER as competition. Efforts by the European Trade Union Federation were ineffective since they failed to convince the trade union organizations in the studied countries to adopt BLER. In this context, a suitable EU Directive obliging member states to introduce BLER may be the best option.

However, this will still be extremely difficult, although not impossible. One must remember that corporate governance structures in many EU countries took decades to achieve their final shape, resulting from long-term evolution and clashes of political, social, and economic views. These structures are deeply embedded in national institutional frameworks. Therefore, in the harmonization process, it is necessary to consider the existing power structure in a given country and establish effective methods for legislating and decision-making. In collective labor law and employment relations, methods and regulations are often closely related to existing power structures. As Munkholm points out, changes to EU legislation on collective labor law and industrial relations, including BLER, “should take into account the existing structures, traditions, values and culture of the existing social order and the business environment in the member states” (Munkholm 2018, p. 11).

Harmonization in these conditions is likely to face strong resistance, mainly from employers and their organizations, but also from some trade unions and political parties. Strong opposition may be expected in countries where there are no statutory regulations on labor relations. Therefore, regulations addressing this issue must be flexible and consider the social, economic, and political conditions of each country. Both the preparation and implementation of the Directive should be spread over time to accommodate these factors.

The prospects for adopting such a Directive increased following the departure of the UK, which was the main opponent of these types of solutions. Any optimism regarding the potential for these measures stems from the EU’s historical experience with this matter. For instance, the Directive on European Works Councils took approximately 30 years to develop before it was adopted in 1994 (Directive 1994/45). Another notable example includes the 2002 Directive on informing and consulting employees (Directive 2002/14/EC), which established works councils. These examples give hope for the mandatory introduction of BLER in the EU member states.

So far, a significant first step has been taken with the adoption of the statute for a European company in 2001, which includes provisions for extensive employee participation (Council Directive 2001/86/EC).

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## References

- Conchon, A., Gold, M., Kluge, N. (2010), *In the union and on the board: experiences of board-level employee representatives across Europe*, ETUI, Brussels, <https://www.etui.org/sites/default/files/2022-11/10%20EBLR%20book-HD%20Printversion.pdf> (accessed: 11.06.2023).
- Council Directive 1994/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, <https://eur-lex.europa.eu/eli/dir/1994/45/oj/eng> (accessed: 15.06.2023).
- Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32001L0086> (accessed: 15.06.2023).
- Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in European Community – Joint declaration of the European Parliament, the Council and the Commission on employee representation, <https://eur-lex.europa.eu/eli/dir/2002/14/oj/eng> (accessed: 5.12.2022).
- European Commission (2005), *Industrial Relations in Europe 2005. Industrial Relations and Industrial Change*, Directorate-General for Employment and Social Affairs Unit D.1, Brussels.
- Gelter, M. (2016), *Employee Participation in Corporate Governance and Corporate Social Responsibility*, “ECGI Law Working Paper”, 322, <https://doi.org/10.2139/ssrn.2798717>
- Gold, M., Waddington, J., (2019), *Introduction: Board-level employee representation in Europe: State of play*, “European Journal of Industrial Relations”, 25 (3), pp. 205–218, <https://doi.org/10.1177/0959680119830556>
- Hyman, R., (2018), *What future for industrial relations in Europe?*, “Employee Relations”, 40 (4), pp. 569–579, <https://doi.org/10.1108/ER-02-2018-0056>
- Ivlevs, A., Veliziotis, M., (2017), *What do unions do in times of economic crisis? Evidence from Central and Eastern Europe*, “European Journal of Industrial Relations”, 23 (1), pp. 81–96, <https://doi.org/10.1177/0959680116672281>
- Jackson, G., Petraki, A., (2011), *Understanding Short-termism: The Role of Corporate Governance*, <https://refubium.fu-berlin.de/handle/fub188/16188> (accessed: 11.06.2023).
- Johnstone, S., Saridakis, G., Wilkinson, A. (2019), *The Global Financial Crisis, Work and Employment: Ten Years On*, “Economic and Industrial Democracy”, 40 (3), pp. 455–468, <https://doi.org/10.1177/0143831X19866532>
- Kim, E.H., Maug, E.G., Schneider, C. (2018), *Labor Representation in Governance as an Insurance Mechanism*, “Review of Finance”, 22 (4), pp. 1251–1289, <https://doi.org/10.1093/rof/rfy012>
- Kleinknecht, R.H. (2015), *Employee participation in corporate governance: Implications for company resilience*, “European Journal of Industrial Relations”, 21 (1), pp. 58–72, <https://doi.org/10.1177/0959680114523820>

- Kluge, N., Stollt, M. (eds.) (2006), *The European Company: Prospects for Workers Board-Level*, Kluwer, Brussels.
- Kohl, H., Platzer, H.-W. (2004), *Industrial Relations in Central and Eastern Europe*, ETUI, Brussels.
- Korkut, U., Ruyter, A. de, Maganaris, M., Bailey, D. (2016), *What next for unions in Central and Eastern Europe? Invisibility, departure and the transformation of industrial relations*, "European Journal of Industrial Relations", 23 (1), pp. 65–80, <https://doi.org/10.1177/0959680116677141>
- Leszczyński, D. (2015), *Emerging Varieties of Capitalism in Transition Countries: Literature Review*, "International Journal of Management and Economics", 48 (1), pp. 101–124, <https://doi.org/10.1515/ijme-2015-0037>
- Mrozowicki, A. (2014), *Varieties of trade union organizing in Central and Eastern Europe: A comparison of the retail and automotive sectors*, "European Journal of Industrial Relations", 20 (4), pp. 297–315, <https://doi.org/10.1177/0959680113519314>
- Munkholm, N.V. (2018) *Board level employee representation in Europe: an overview*, [https://eu.eventscloud.com/file\\_uploads/e0bd9a01e363e66c18f92cf50aa88485\\_Munkholm\\_Final\\_EN.pdf](https://eu.eventscloud.com/file_uploads/e0bd9a01e363e66c18f92cf50aa88485_Munkholm_Final_EN.pdf) (accessed: 11.06.1023).
- Neumann, L. (2018) *Board-level employee representation in Hungary: A useful tool for company unions and works councils*, [in:] J. Waddington (ed.), *European Board-Level Employee Representation – National Variations in Influence and Power*, Wolters Kluwer, Alphen aan den Rijn, pp. 103–126.
- Owczarek, D., Pańków, M., Pławecka, D. (2021), *Czas na uczestnictwo. Zaangażowanie pracowników w transgraniczne przekształcenia korporacyjne – praktyki w Polsce*, Instytut Spraw Publicznych, Warszawa.
- Rudolf, S. (2008), *Udział przedstawicieli załogi w radach nadzorczych spółek w nowych krajach Unii Europejskiej*, [in:] S. Rudolf (ed.), *Rola nadzoru korporacyjnego w kreowaniu wartości przedsiębiorstwa*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź, pp. 393–408.
- Rudolf, S. (2020), *Attempts to harmonise the European Union legislation in respect of employee representation in corporate governance bodies*, "Ekonomia i Prawo, Economics and Law", 19 (3), pp. 533–549, <https://doi.org/10.12775/EiP.2020.036>
- Rudolf, S., Skorupińska, K. (2012), *Bezpośrednie formy partycypacji pracowniczej. Polska na tle starych krajów Unii Europejskiej*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź, <https://doi.org/10.18778/7525-752-6>
- Skorupińska-Cieślak, K. (2021), *Partycypacja pracownicza w krajach UE – analiza porównawcza*, "Studia Prawno-Ekonomiczne", CXX, pp. 221–238, <https://doi.org/10.26485/SPE/2021/120/12>
- Skorupińska-Cieślak, K. (2023), *Stosunki przemysłowe w krajach Europy Środkowo-Wschodniej*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź, <https://doi.org/10.18778/8331-108-1>
- Smith, S.C. (1991), *On the economic rationale for codetermination law*, "Journal of Economic Behavior and Organization", 16 (3), pp. 261–281, [https://doi.org/10.1016/0167-2681\(91\)90014-O](https://doi.org/10.1016/0167-2681(91)90014-O)
- Soulsby, A., Hollinshead, G., Steger, T. (2017), *Crisis and change in industrial relations in Central and Eastern Europe*, "European Journal of Industrial Relations", 23 (1), pp. 5–15, <https://doi.org/10.1177/0959680117693686>
- Stollt, M., Kluge, N., (2006), *Partycypacja pracownicza na poziomie zarządzania przedsiębiorstwem w dziesięciu nowych państwach członkowskich UE*, Agencja Rozwoju Społecznego (SDP), Europejski Instytut Związków Zawodowych, Bruksela.

- Tomasek, P. (2022), *Strengthening the position of members of supervisory board elected by employee co-determination in the light of legal and extra-legal reality*, "The Lawyer Quarterly", 12 (4), pp. 385–392.
- Ustawa z dnia 30 sierpnia 1996 r. o komercjalizacji i prywatyzacji przedsiębiorstw państwowych, Dz.U. 1996 No. 118.
- Ustawa z dnia 13 lipca 1990 r. o prywatyzacji przedsiębiorstw państwowych, Dz.U. 1990 No. 51, poz. 298.
- Villiers, C. (2021), *Corporate Governance Employee Voice and the Interest of Employees: The Broken Promise of a World Leading Package of Corporate Reforms*, "Industrial Law Journal", 50 (2), pp. 152–195, <https://doi.org/10.1093/indlaw/dwaa017>
- Vitols, S. (2021), *Board Level Employee Representation and Tax Avoidance in Europe*, "Accounting, Economics, and Law: A Convivium", 13 (4), 20190056, <https://doi.org/10.1515/acl-2019-0056>
- Waddington, J., Conchon, A. (2016), *Board Level Employee Representation in Europe: Priorities, Power and Articulation*, Routledge, London, <https://doi.org/10.4324/9781315762388>
- Williams, C. (2015), *Evaluating cross-national variations in envelope wage payments in East-Central Europe*, "Economic and Industrial Democracy", 36 (2), pp. 283–303, <https://doi.org/10.1177/0143831X13505120>
- Worker Representation in Europe* (2005), Labour Research Department Booklets, May.
- Yeoh, P. (2007), *Corporate governance models: Is there a right one for transition economies in Central and Eastern Europe?*, "Managerial Law", 49 (3), pp. 57–75, <https://doi.org/10.1108/03090550710816483>
- Zybała, A. (2019), *Board-level employee representation in the Visegrád countries*, "European Journal of Industrial Relations", 25 (3), pp. 261–273, <https://doi.org/10.1177/0959680119830572>

## Perspektywy rozwoju BLER w nowych krajach UE

Artykuł ma na celu określenie perspektyw rozwoju BLER w nowych krajach UE. Przy realizacji tego celu zastosowano krytyczną analizę literatury przedmiotu oraz odpowiednich regulacji prawnych. Przedstawicielstwo pracownicze w organach nadzoru korporacyjnego ma w starych krajach UE ugruntowaną pozycję. Jest ono popierane zarówno przez związki zawodowe, jak i przez pracodawców i ich organizacje. Inaczej sytuacja wygląda w nowych krajach UE. Połowa z nich nie posiada takiej reprezentacji opartej na ustawodawstwie prawnym. W pozostałych krajach okres transformacji zaowocował rozwiązaniami wzorowanymi na krajach zachodnich, głównie na doświadczeniach niemieckich. Jednak w następnych latach, głównie pod wpływem kryzysu z lat 2007–2008, zakres takiego przedstawicielstwa był stopniowo ograniczany. Procesy transformacji nie spowodowały więc zakorzenienia się tego rodzaju rozwiązań w analizowanych krajach. Przedstawicielstwo załogi w organach nadzoru korporacyjnego stanowi z jednej strony ważny element demokratyzacji stosunków pracy, z drugiej zaś przynosi najczęściej wymierne korzyści przedsiębiorstwom. W związku z tym jego upowszechnienie w nowych krajach UE staje się niezwykle istotne. Zawarte w artykule rozważania prowadzą do wniosku, że w najbliższej perspektywie wspomniane kraje nie są w stanie upowszechnić samodzielnie tego rodzaju rozwiązań. Stąd propozycja wypracowania odpowiedniej dyrektywy UE, zobowiązującej kraje członkowskie do upowszechnienia tego rodzaju rozwiązań na zasadach obligatoryjnych. Szanse na wypracowanie takiej dyrektywy znacznie wzrosły po opuszczeniu Unii przez Wielką Brytanię.

Z 14 krajów, które stanowią przedmiot rozważań, aż 9 to kraje postkomunistyczne i im poświęcono najwięcej miejsca w artykule.

**Słowa kluczowe:** nadzór korporacyjny, BLER, partycypacja pracownicza, związki zawodowe, Unia Europejska