



## **- BOOKLET -**

**(Produzido no âmbito do Projeto/ Produced within Project:  
UPPER LEVEL -  
JOINT SOCIAL COMMITMENT  
As the Key to I&C and Participation and Their Challenges)**

### **➤ Malta**

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O projeto «Upper Level – Joint Social Commitment – as the Key to I&C and Participation and their Challenges» resulta de um desafio lançado pelo promotor - SIMA - a todos os parceiros envolvidos para sejam capazes de ir ainda mais além e abordar um conjunto de questões relacionadas com a Informação e Consulta dos Trabalhadores trazendo-as níveis superiores.

Envolveu, desde o primeiro momento, muitos parceiros, de diferentes setores, parceiros sociais, diferentes ambientes e países que têm sido fatores-chave dentro do projeto, juntamente com os especialistas do projeto.

Este projeto vem potenciar aquilo que o promotor sempre apresentou, que a Informação e Consulta é o elemento-chave para o desenvolvimento das empresas, promovendo o envolvimento de todos, na procura de novas abordagens e novos caminhos. Tendo isso em mente e a partir de trabalhos anteriores realizados pelo promotor, concluiu-se que a informação e a consulta desempenham um papel decisivo (antecipar, ultrapassar crises e preparar as empresas, a longo e médio prazo, para enfrentar os desafios através do envolvimento dos colaboradores). Dentro de todo este contexto, a melhor forma de chegar às pessoas e incentivar o seu uso correto é através de uma abordagem prática, dando a palavra aos principais intervenientes no processo e explicando a sua experiência e promovendo a troca de experiências.

Este projeto reuniu empregadores e sindicatos de Estados membros da UE e países candidatos à UE, que, de forma voluntária, adotaram, desenvolveram mecanismos para a implementação real da I&C dos trabalhadores através da adoção de mecanismos de eficiência para a implementação real do que está previsto nas Diretivas e no seu cumprimento em caso de incumprimento. Os principais objetivos incidiram na adoção dos meios que permitissem a eficácia da I&C prevista nas Diretivas sobre esta questão; a introdução do direito de participação dos trabalhadores como elemento estimulador da eficiência da I&C; a participação financeira dos trabalhadores como um mecanismo que pode abrir caminho para a introdução do direito de participação dos trabalhadores, como outras ferramentas de diálogo social (SSDC, acordos transnacionais).

Todos estes temas e assuntos, todos interligados, foram abordados e analisados em profundidade, não só pelos especialistas do projeto, como também pelos parceiros

envolvidos e os resultados dos trabalhos conduziram à celebração de acordos conjuntos por parte de alguns dos parceiros, como por outro, abriu o caminho para declarações unilaterais das organizações enfatizando a importância dos diferentes assuntos e como medidas e desenvolvimentos concretos podem ser alcançados.

O promotor teve a honra de poder contar com o envolvimento sério e profundo de todos os que participaram neste, mesmo quando, durante a execução do projeto, o mundo enfrentou uma Pandemia COVID 19, e agora, mais do que nunca, num difícil contexto socioeconómico, ressaltamos a importância do trabalho perante o qual tivemos a oportunidade de aplicar os conhecimentos e os resultados do projeto, em concreto o que foi acordado pelos parceiros sociais a nível nacional, sublinhando a pertinência do trabalho e seus resultados.

Sem dúvida, pensamos que este projeto trouxe a consciência de que se, por um lado, I&C significam algo que pode ser útil, interessante e importante, por outro lado, na prática, tal é realmente importante se usado de forma adequada e com o respeito pelos procedimentos e disposições e que estes possam assumir uma perspetiva diferente uma vez aplicada na prática, alertando todos os envolvidos para o facto de esta realidade ser mais do que apenas um mero conceito.

Temos agora, país a país, a perceção dos parceiros sobre o assunto, sobre as dificuldades que enfrentam e os novos objetivos que se colocam reativos à I&C. Isso só foi possível por meio do trabalho realizado por este projeto.

Gostaríamos de expressar aqui nossa gratidão a todos que continuaram, apesar das restrições, a trabalhar, a empenharem-se na ação, apesar das adversidades causadas pelo impacto da pandemia COVID 19 e por nos permitirem trazer para este projeto a prova clara que o elemento voluntário associado aos elementos-chave é essencial.

Aqui está o que foi possível alcançar, por país e / ou parceiro:

Project «Upper Level – Joint Social Commitment -as the key to I&C and Participation and their Challenges» results from a challenge launched by the promotor SIMA to all the partners involved to go even further by approaching a set of matters related to Employees' Information and Consultation and bring those to Upper levels.

It involved since the very first moment many partners, from different sectors, social partners, different environments and countries that have been key players within the project, together with the project's experts.

This project enhanced what the promoter has always presented, that Information and Consultation is the key element for the development of the companies, promoting the involvement of all, looking for new approaches and new ways. Having that in mind and from previous works carried out by the promoter it has been concluded that information and consultation play a decisive role (anticipating, overcoming crisis and preparing companies, in a long and medium term, to face challenges through the employee's involvement). Within this whole context the best way to reach people and to encourage the correct use of it, is through a practical approach by giving the floor to the main interveners in the process and let them explain their experience and promoting exchange of such experiences.

This project gathered employers and trade unions from EU member states and EU applicant countries, that on a voluntary basis and adopted, developed mechanisms towards the real implementation of employees' I&C through the adoption of efficiency mechanisms to the real implementation of what is foreseen in the Directives and in its' accomplishment in case of non-respect. The main goals focused on the adoption of the means allowing the efficiency of the I&C foreseen in the I&C Directives; the introduction of employees' participation right as a stimulating element for the efficiency of I&C; employees' financial participation as a mechanism than can lead the way to the introduction of employees' participation right, as other social dialogue tools (SSDC, transnational agreements).

All these themes and matters, all linked, were approached and were deeply analyzed not only by the project's experts as well by the involved and participating partners and stakeholders involved and the results of the work led to the conclusion of joint

agreements by some of the project's partners as for other it led the way to unilateral statements of the organizations enhancing the importance of the different matters and how concrete measure and developments can be achieved.

The promoter had the honor of being able to with the serious and deep involvement of all the ones involved even when, during the project's execution, the world faced a COVID 19 Pandemic, and now, more than ever in a difficult, harsh socio-economic moment, we stress the importance of the work when facing a situation such this one and saw the opportunity of applying the knowledge and the outcomes of the project, in concrete what has been agreed by the social partners at national level, stressing the pertinence of the work and the results of it.

Undoubtedly, we think that this project brought an awareness that if, on the one hand, information and consultation mean something that may be useful, interesting, and important, on the other hand, in practice, such is indeed important if used properly and with the respect for procedures and provisions and that such can assume a different perspective once applied in practice., alerting all the ones involved to the fact that this reality in more something than just a concept.

We have, now country by country, the perception of the partners on the subject, on the difficulties that they face and the new aims for them and of all the ones involved in information and consultation. This has only been possible through the work carried out by this project.

We would like to express here our gratitude to everyone who continued, despite the restrictions, to work, to be involved and engaged in the action despite the adversities caused by the impact of COVID 19 pandemic and by allowing us to bring into this project a clear proof that the voluntary element associated with key elements is essential.

Here is what it was possible to achieve, by country and/or partner:



**Sindicato das Indústrias Metalúrgicas e Afins (SIMA) and the Malta Employers' Association (MEA) under the project «Upper Level – Joint Social Commitment – as the Key to I&C and Participation and Their Challenges»,**

Taking into consideration the importance of the role played by the employees' mechanisms of Information and Consultation at National level;

Taking into consideration the existing rights of employees' I&C, foreseen by the national law and aiming to better assure the efficiency of the employees' rights on information and consultation,

Taking into consideration the need to improve the actual existing definitions of Employees' Information and Consultation to better comply with the needs of both employees and companies,

Taking into consideration the positive potential of employee participation in the executive management as a source of additional information and consultation for the best possible decision making in company and as in establishing a cooperation for a continuous and ongoing dialogue,

Taking into consideration the need to work towards that aim and use the collective bargaining as an important way to achieve this goal,

The partners agree on the following:

**Information and Consultation rights**

**Definitions**

The partners agree on the need to have a more precise definition of the concepts so that it complies with the European law but also because they agree that such mechanism, in order to better be applied, should include:

- **Information:** means transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings;
- **Consultation:** means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken

into account within the Community-scale undertaking or Community-scale group of undertakings;

Trade union representatives, at company level (shop steward) or the trade union official, has the right to information and consultation, besides the matters included by collective bargaining, on the following matters:

Information and consultation shall cover:

- (a) information on the recent and probable development of the undertaking's or the establishment's activities and economic situation;
- (b) information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment;
- (c) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations;
- (d) information and consultation on the needs of the company with regard to training with a view to determining the training needs of the company's workers;
- (e) information and consultation on the need of the company in making use of new work forms, such as platform work.

Information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation.

Consultation shall take place:

- (a) while ensuring that the timing, method and content thereof are appropriate;
- (b) at the relevant level of management and representation, depending on the subject under discussion;
- (c) on the basis of information supplied by the employer and of the opinion which the employees' representatives are entitled to formulate;
- (d) in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;
- (e) with a view to reaching an agreement on decisions.

Procedure:

The trade union representative requests in writing, respectively, to the management body of the company or establishment the information elements regarding the matters covered by the right to information.

The information is provided in writing, within eight days, or 15 days if its complexity justifies it.

In the case of consultation, the employer requests in writing the opinion of the trade union representative (s), which must be issued within 10 days of receipt of the request, or within a longer period that is granted given the extent or complexity of the matter.

If the trade union representative asks for pertinent information on the matter of the consultation, the period referred to in the preceding paragraph starts from the provision of the information, in writing or at a meeting in which this occurs.



When the employer's decision to exercise management and organizational powers arising from the employment contract is involved, the information and consultation procedure must be conducted by both parties in order to reach, whenever possible, consensus.

The creation of a body, at sectoral level, focused on Employees' Information and Consultation, aiming to monitor and check the process compliance with the legislation, to collect critics, suggestions and claims from both employees, employees' representatives and companies and to act, impartially, as a mediator in the face of conflicts, offering legal advice in order to find solutions for conflicts.

This body aims to act as a supervisory body and as a first resource in the event of the need to challenge the confidentiality of information or the refusal to provide it or consultations. It should be an urgent nature procedure in order to secure the useful effect of the decision. This body will perform the function of settling existing or future conflicts.

**Pandemic situation – COVID 19**

The world is facing a severe and unprecedented sanitary crisis due to COVID-19. The partners agree on the need to take measures to secure individuals and economies. With such goal in mind the partners agree on the importance of privileging a quality social dialogue as the way to secure continuity of the operations and keep the employment. Necessary measure should be taken within the scope of the collective bargaining.

For such purpose the partners agree on the important role played by the employees' information and consultation mechanisms.

Social partners must play an important role in the measures to be taken not only in order to prevent social and economic consequences, as well to promote the recovery of the companies, securing employment and creating safe workplaces with the necessary safety conditions, creating a secure and healthy environment.

Having this in mind the partners agree on enhancing the role of employees' information and consultation not only to find solutions for the problems raised by the pandemic situation as it is a very important tool to anticipate measures/needs and to prepare the work in the future.

Done at Valletta, Malta

Date: 25.02.2021

JOSEPH FARRUGIA

  
DIRECTOR MALTA EMPLOYERS' ASSOCIATION

JOSÉ SIMÕES

  
SIMA's GENERAL SECRETARY





CREDIBLE | COMPETENT | CONSISTENT

The General Workers' Union, under the project «*Upper Level – Joint Social Commitment – as the Key to I&C and Participation and Their Challenges*»,

Having into consideration the importance of the role played by the employees' mechanisms of Information and Consultation at National level;

Having into consideration the existing rights of employees' I&C, foreseen by the national law and aiming to better assure the efficiency of the employees' rights on information and consultation,

Having into consideration the need to improve the actual existing definitions of Employees' Information and Consultation to better comply with the needs of both employees and companies,

Having into consideration the positive potential of employee participation in the executive management as a source of additional information and consultation for the best possible decision making in company and as in establishing a cooperation for a continuous and ongoing dialogue,

Having into consideration the need to work towards that aim and use the collective bargaining as an important way to achieve this goal,

The partners agree on the following:

- **Information and Consultation rights**

Definitions

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**General Workers' Union**  
Workers' Memorial Building  
South Street, Valletta  
VLT 1103 Malta

**T** (+356) 2124 4300  
(+356) 2567 9234 / 200  
**E** info@gwu.org.mt

[www.gwu.org.mt](http://www.gwu.org.mt)

- Consultation: means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings;

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When the employer's decision to exercise management and organizational powers arising from the employment contract is involved, the information and consultation procedure must be conducted by both parties in order to reach, whenever possible, consensus.

The creation of a body, at sectoral level, focused on Employees' Information and Consultation, aiming to monitor and check the process compliance with the legislation, to collect critics, suggestions and claims from both employees, employees' representatives and companies and to act, impartially, as a mediator in the face of conflicts, offering legal advice in order to find solutions for conflicts.

This body aims to act as a supervisory body and as a first resource in the event of the need to challenge the confidentiality of information or the refusal to provide it or consultations. It should be an urgent nature procedure in order to secure the useful effect of the decision. This body will perform the function of settling existing or future conflicts.

- **Employees' Participation Right**

The partners agree on the importance of the workers representatives' participation right in solving conflicts or avoiding conflicts. In addition when employees are offered the possibility to participate in the decision making will lead to better results in business, management and human resources.

The partners agree that it is important to establish a cooperation for a continuous and ongoing dialogue and having this as a basis they agree on the creation of an executive management team within the collective bargaining level (at company and/or sectoral level).

This will allow to provide a feedback channel towards the employees that will benefit everyone.

This will not restrict the ability and rights of the employer to make decisions.

The employees that are part of the participation process are bound by confidentiality.

Having this mind, the partners agree that employees have the right to participate in the decision taking procedure. For such purpose the partners agree on the creation of an executive management team.

This team has the right to participate, every three months, in a company's management's meeting.

For such purpose the executive management team has the right to:

- a) Prior information and consultation on issues to be approached in the meeting, namely on the formulation of restructuring plans or projects;
- b) Present suggestions, complaints or criticisms to Organs competent bodies of the company
- c) Meet with the bodies in charge of preparatory restructuring work;



The executive management team will be pointed out by the trade unions/employees' representatives and will represent one third of the company's management body do the company.

Procedure and nomination of the Employees' representatives should be made via collective bargaining.

- **Employees' Financial Participation**

Partners see the introduction of Employees' Financial Participation as an important way to achieve the goals of employees' involvement and a useful tool for improving and developing the engagement of social partners and social dialogue at company level.

Having in mind the present pandemic situation the world is living, the partners agree that the introduction of such is a way to better redistribute wealth amongst employees and companies and a way to improve the engagement having as a goal overcoming the difficulties and to promote the development of the companies and to maintain the workforce and employment.

The partners point out that introduction of WFP schemes, such as the «Bonus» (profit sharing schemes) as a way to achieve this goal.

This is particularly relevant within the SME's companies, where employees and companies should work together for their own benefit.

For such purpose the partners agree that the best way to debate and to introduce this is within collective bargaining once this can be influenced by the individual conditions of each company and /or branch.

- **New work forms**

Having into consideration the need to guarantee the equality of all non-standard workers and workers in platform companies,

Partners agree on the use of new work forms, such as platform work, if it is carried out in full compliance with international and European instruments on human, trade union, social rights and occupational safety and health.

Employees covered by the new work forms must have access to information and consultation, on a regular basis and within what is established for the workers working in person in their workplace. If it is the case, and to comply with the safety measures in place due to COVID 19, such can take place using the digital tools available, namely digital platforms.

- **Anticipation scenarios**

Partners agree that employees' information and consultation mechanisms play an important role in anticipating scenarios and in finding out solutions for the challenges ahead by working on it in advance.

For such purpose the partners also agree that training, in a way to anticipate future needs) play an important role, such as training needs, reskilling, upgrading skills.

- **Pandemic situation – COVID 19**

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mind the partners agree on the importance of privileging a quality social dialogue as the way to secure continuity of the operations and keep the employment. Necessary measure should be taken within the scope of the collective bargaining.


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Social partners must play an important role in the measures to be taken not only in order to prevent social and economic consequences, as well to promote the recovery of the companies, securing employment and creating safe workplaces with the necessary safety conditions, creating a secure and healthy environment.

Having this in mind the partners agree on enhancing the role of employees' information and consultation not only to find solutions for the problems raised by the pandemic situation as it is a very important tool to anticipate measures/needs and to prepare the work in the future. The actual situation we are living in has shown that it has not been well prepare and it was necessary to face the actual situation to gain awareness of such. If the mechanisms were in place and functioning it was not need to wait to see that it was not the case.

Done at Workers' Memorial Building, Valletta

Date: 22<sup>nd</sup> March 2021



Mr Josef Bugeja  
Secretary General  
General Workers' Union

**General Workers' Union**