

STAFF DELEGATION AND COVID-19

During the measures to combat COVID-19, the staff delegations continue to exercise their general mission of safeguarding and defending the interests of the staff of the company in terms of working conditions, job security and social status.

How the delegation works

During the state of crisis, the delegates are still free for as long as it is necessary to exercise their functions: an employer can therefore not prohibit the staff delegates from using their time credit and from exercising their rights granted by the Labor Code.

The fact that the company benefits from short-time work scheme is not an obstacle to maintaining the functions of the staff delegation: the exemption from work granted by the employer has no consequence on the exercise of the staff delegate mandate.

In the event of an employer opposition, the employer could commit an offense of obstructing to correct functioning of the staff delegation.

The staff delegation also has many means of action within the company to fulfill its obligations and assert its rights:

- ♦ delegation meetings, meetings and interviews with staff;
- ♦ free movement within the company, organization of consulting hours for the employees;

- ♦ access to internal and external means of communication available (intranet, paper, etc.)

Note that in the context of the health crisis, the staff delegation is required to comply with the legal and regulatory provisions in force, which includes the health and safety rules established in the context of the fight against COVID-19.

In order to contribute to the collective effort to combat the spread of the virus, it is therefore recommended to limit these procedures to the bare minimum and to use telecommunications means that comply with health and safety regulations to contact employees.

Information and consultation competences

Information and consultation in all companies

As part of the fight against the virus, the delegation must be informed and consulted for all the measures put in place. This ranges from equipment, working methods and even production reorganizations.

The same applies to the safety and hygiene rules which are considered to fall under the internal regulations. Thus, the staff delegation has a right to information, consultation and participation in matters of workplace safety, personal (masks, glasses, gloves, gel, etc.) and collective protective equipment (protective screens, barriers, etc.) and has the explicit mission to:

- ◆ give its opinion on the preparation or modification of the internal regulations and strictly monitor the execution of these regulations;
- ◆ to propose modifications to the internal regulations;
- ◆ participate in the protection of work and its environment as well as in the prevention of accidents at work and occupational diseases.

The staff delegation must be informed and consulted on numerous points, including in particular (non-exhaustive list):

- ◆ the use of temporary workers or subleasing employees,
- ◆ temporary provision of employees to other employers,
- ◆ the provision of overtime,
- ◆ the use of short-time work.

Technical, economic and financial information and consultation in companies with at least 150 employees

The staff delegations, in companies occupying at least 150 employees during the 12 months preceding the 1st day of the month of the posting announcing the elections, benefit from a right to information and consultation in the following matters:

- ◆ company facilities, work equipment and working methods
- ◆ construction, transformation or extension of production or administration facilities;
- ◆ the introduction, improvement, renewal or transformation of the equipment;
- ◆ the introduction, improvement, renewal or transformation of working methods and production processes with the exception of manufacturing secrets.

The company director is required to inform the staff delegation about the impact of the measures listed above on working conditions and the working environment.

Co-decision competence

In companies with 150 or more employees, most of the measures that the employer introduces are

subject to co-decision, that is to say that the agreement of the delegation is essential for the decision-making of the employer.

In the context of COVID-19, this is the case for:

- ◆ the introduction or modification of measures concerning the health and safety of employees as well as the prevention of occupational diseases;
- ◆ the preparation or modification of the internal regulations taking into account, where applicable, the collective agreements in force.

Without the delegation's agreement, the employer's decision is not effective against employees. An employee could not, for example, be penalized for not having complied with an instruction covered by the internal regulations.

The non-compliance of the allocations of the staff delegation also constitutes an offense of obstruction which can be punished with a fine.

Safety and health delegate

Since the state of crisis linked to COVID-19, the importance of the role of the safety and health delegate has been further accentuated and he will have to pay particular attention to compliance by the employer with the various recommendations of the health authorities.

Right to information and consultation

The company director is required to consult and inform the safety and health delegate about:

- ◆ risk assessment for occupational safety and health, including those concerning groups of employees at particular risk;
- ◆ protective measures to be taken and, if necessary, protective equipment to be used;
- ◆ declarations on work accidents to be submitted to the Labor and Mines Inspectorate;
- ◆ any action which may have substantial effects on safety and health;
- ◆ the appointment of employees designated to take care of the protection and prevention activities of the company's professional risks;
- ◆ measures taken in first aid, fire fighting and



evacuation of employees, necessary measures, adapted to the nature of the activities and the size of the company and / or establishment, and taking into account other people present;

- ◆ measures to organize the necessary relations with the external services, in particular those related to first aid, emergency medical assistance, rescue and fire fighting;
- ◆ the use of skills in the company, skills outside the company to organize protection and prevention activities;
- ◆ adequate training provided to each employee in the interests of their health and safety;
- ◆ the assessment of the risks that the company's activities may have for the environment as far as health or working conditions are concerned;
- ◆ measures taken to protect the environment, as far as the health or working conditions of employees are concerned.

Right to make proposals

The safety and health delegate has the right to ask the employer to take appropriate measures and to submit proposals to him in this sense, so as to mitigate any risk for employees or to eliminate sources of danger.

Control tours

Each week, the safety and health delegate, accompanied by the company director or his representative, can tour the company's headquarters and work sites or other temporary work places.

The person responsible within the company which is the subject of the control tour and the head of the maintenance department attend the control tour.

Relationship with the Labor and Mining Inspectorate

Inspection and control staff of the Labor and Mining Inspectorate have the right to be accompanied, during their tours, by the safety and health delegate; also, they may be assisted during the investigation of accidents.