

Vistula University

PhD Thesis

Selected socio-administrative aspects of  
applying the „zero accident” strategy in  
practice

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## Summary

The importance of occupational safety issues is brought to our attention by the International Labor Organization (ILO), which estimates that approximately 2.3 million women and men worldwide suffer fatal accidents or illnesses at work, which is responsible for over 6,000 deaths every day. Meanwhile, around the world, there are approximately 340 million accidents at work every year. In turn, 160 million victims suffer from occupational diseases. In Poland, in the period from January to September 2023 alone, 45,809 people were reported injured in accidents at work.

Therefore, as the process of European integration progresses, individual parliaments of the Member States, as well as the European Union itself, are increasingly interfering in working conditions.

The goals of these efforts are diverse. On the one hand, there is a mandatory obligation to ensure compliance of national legislation with EU regulations. On the other hand, along with ensuring appropriate standards in the field of occupational health and safety (OSH), it is possible to achieve humanitarian intentions by improving the well-being of the general public, by preventing negative events before they even have a chance to occur.

All these valuable aspirations should, of course, have a legal dimension; they should be based on laws, regulations and institutions that implement the will of the state. Antoine T.J.M. Jacobs notes that EU solutions in the field of labor law are dominated by national legislation, quite unlike in the United States, where federal solutions dominate over state ones.

Formalized efforts to improve human conditions have not always existed, however. Labor law was created in the second half of the 19th century to protect factory workers with the emergence of modern capitalism, thanks to the contributions of Otto von Bismarck.

These solutions began to replace the previous feudal relations. At the very beginning, this new field of law concerned mainly the emerging textile industry. Hence, it was originally referred to as factory law. Later solutions also began to extend a protective umbrella over farmers and white-collar workers, who in the interwar period in Poland constituted only about 10% of all employees. This disproportion explains why the synonym of "labor law" is "workers law".

Therefore, the development of non-code occupational health and safety regulations is nothing more than a natural direction of development of labour law.

Some Polish researchers point out that the market system had certain degenerations from its very beginning. The industrial revolution in England led to a rapid increase in national wealth, but at the same time, according to Mirosław Bochenek, the situation of workers became increasingly difficult. The fall in men's wages forced women and children to work, who were even more exploited. These negative manifestations of 19th-century economic life led to the creation of workers' law, which was dictated by the need to alleviate class conflict.

Economic history provides more than enough examples of the weaker party on the labour market, unable to come to terms with exploitation, causing social unrest. In the interwar period, the number of strikes and lockouts reached alarmingly high levels, as Janina Ettinger demonstrated in her works (e.g. in 1923, the number of striking and locked-out workers was 849,000 out of a total of 924,000 employed). Social protests still occur today, but they are not as mass a phenomenon as they were a hundred years ago.

Currently, large economic entities are beginning to see the benefits of implementing the most modern solutions in the field of labor protection. Many companies are keenly interested in taking systematic actions to improve occupational health and safety. In their actions, corporations are guided not only by legal coercion, but also by social expectations, as well as the possibility of obtaining positive economic effects. A low accident rate has a great impact on the company's image, which translates into the company's stock market value. Hence, an increasing number of high-level managers understand how rational all actions taken on behalf of employee in case of health and safety.

This doctoral dissertation assumes as its guiding thesis that documents implementing the "zero accidents" strategy constitute a source of company law. The result of these actions is to minimize the number of accidents at work. The employer has a statutory obligation to organize work in a safe and hygienic manner and to ensure compliance with health and safety regulations and principles, hence within a given workplace, documents creating the scope of the "zero accidents" strategy and implementing it in business practice can be considered a source of company law. The content and layout of the entire work are subordinated to the implementation of the main thesis put forward by the author, as well as to auxiliary hypotheses. The dissertation consists of five chapters. The

adopted division was to create a closed and logical whole. Therefore, the considerations began with the evolution of occupational health and safety regulations, later describing the issues of accidents at work and institutions taking care of work protection. The whole is crowned by a reference to the activities of modern corporations in the field of occupational health and safety. In order to enrich and broaden the considerations discussed in the work, numerous *de lege ferenda* postulates, tips and purely practical observations were also used, which result from the experience gained during the author's professional practice in the occupational health and safety service.

Legal regulations, according to the author of this dissertation, are necessary because their direct implications lead to increased employee protection and employment promotion. Proper implementation of these intentions significantly improves human well-being. Ensuring an appropriate level of work protection is one of the most important obligations of the employer, because it aims to protect health and life, which is one of the most important values protected by the Constitution.

The main source texts used in the dissertation are textbooks for teaching subjects related to occupational health and safety, political science and administrative literature (domestic and foreign), specialist quarterlies and scientific articles. In the legal scope, a number of acts, ILO conventions, regulations, as well as many Supreme Court rulings were analyzed.

The first chapter presents the genesis and development of Polish occupational health and safety regulations. The impact of pre-code regulations on the 1974 Labor Code is assessed, thus showing the natural evolution that took place in the Polish legal system. The convention regulation is also described. Without a doubt, this detailed analysis of current legal requirements allows for the creation of a basis for further considerations assessing the impact of the applicable regulations on occupational health and safety. However, the basic obligations imposed on the employer by the Labor Code do not exhaust the entire issue.

Current theoretical considerations in the field of sources of labor law have a static nature of understanding what the internal sources of labor law are. However, this understanding of the matter is too narrow, not adapted to the present day. Therefore, in the second chapter, a distinction is made between the classical and prospective approach in the field of internal sources of labor law. The catalog of internal sources of labor law

should be treated in an open manner, and not as a closed catalog. With the development of the market economy, corporate entities are beginning to create new acts that regulate in detail the relations between the employer and the employee. However, the crux of these considerations is to show that the "zero accidents" strategy is a conglomeration of internal management acts, generalized employer instructions and internal sources of labor law, and is the culmination of the previous evolution of the legal system in the field of improving the state of health and safety at work. Hence, it is so important to present its subject. It was not possible to present and formulate these considerations without first presenting the evolution of legal regulations in the field of health and safety at work. To provide a link to the later part of the paper, a "Vision Zero" on work-related deaths in the EU is analysed in the context of the EU Strategic Framework on Occupational Safety and Health 2021-2027.

There is no doubt that in order to ensure the appropriate level of safety, both employer representatives and employee representatives must cooperate. In order to ensure the proper implementation of this goal, a number of different institutions supervise this process in large organizations. In addition, the natural development of state administration, resulting from growing social needs, has led to the expansion of the bureaucratic apparatus, whose task is to supervise the implementation of legal recommendations. Hence, the third chapter focuses on the activities of non-state entities (workers councils, trade unions, the health and safety service, the health and safety commission, the social labor inspectorate) and state institutions supervising enterprises (e.g. the State Labor Inspectorate, the State Sanitary Inspectorate and the Office of Technical Inspection). The above-mentioned bodies are regulated in detail by a number of different regulations; they also have a fundamental impact on the shape of the "zero accidents" strategy. By familiarizing ourselves with these considerations, we can come to the conclusion that the implementation of the legal order requires the consistent cohabitation of all parties working in a given institution.

Contrary to appearances, classifying an event as an accident at work is not an easy task. Due to the multi-element nature of the legal definition of an accident, the accident commission often has to refer to case law to properly describe the course of a given situation. The post-accident procedure itself can be considered quite complicated, and in addition, the post-accident report requires the formulation of rational post-accident recom-

mendations, which is not an easy task at all. Hence, the fourth chapter briefly describes the aforementioned issues. In addition, an attempt was made to analyze the procedure in the field of accidents on the way to or from work. The scientific methods of investigating accidents were described, because the implementation of the "zero accidents" strategy is most often associated with conducting detailed analyses in this area.

The chapter ends with an analytical part, which: shows the consequences of ignoring the constitution, laws, implementing regulations, and legal provisions; justifies some of the research questions, such as those related to the enforceability of current legal provisions. One of the reasons for the decreasing accident rate in the national context is the global organizational, initiative, and capital activities of large construction and manufacturing companies. In other words, in order to lend credibility to the local research described in the last chapter (activities of large corporations), it was also necessary to refer to national research. The comparison of these two orders shows a certain coherence and logic: the popularization of the "zero accidents" strategy can result in a more dynamic increase in employee safety. The organizational and capital efforts of business omnibuses significantly reduce the global number of accidents at work. This chapter also analyzes the total number of people injured in accidents at work, the number of accidents at work by gender, accident mortality rates, the time of incapacity for work for the injured, the number of accidents by type (slight, serious, fatal), and the number of people employed in hazardous conditions. The above data concern the period from the 1990s to the present.

The conclusions of the fourth chapter constitute a supplementary part, supporting the leading considerations, which are above-standard actions to reduce the level of accidents.

An important part of the work is the fifth chapter, which, by referring to selected entities, also confirms the validity of the theses of the second chapter (the "zero" vision as a source of company law). Of course, state restrictions do not operate in a vacuum. Standards imposed from above are reflected in the internal procedures of PZL-Świdnik S.A. and Pass Polska Sp. z o.o. Therefore, a comparison of internal procedures was made and a description of non-standard solutions used by the above-mentioned companies in their daily operational activities was made. The considerations were supplemented with the experiences of other large entities, such as: Carlsberg Polska, YARA Poland sp.

z o.o. and PKN Orlen S.A., in order to expand the empirical base. In order to more effectively implement legal requirements, additional threads are raised during safety training (e.g. OPL – One Point Lesson), in order to better prepare the listener for professional work – this process was described in detail. Going further, all investment changes taking place in large manufacturing enterprises are related to external companies. Hence, an attempt was made to show how the safe work of two foreign entities working side by side is organised; how Italian legislation influences the solutions of the Polish entity (DUVRI document)

The actions of entrepreneurs that go beyond the mandatory occupational health and safety requirements can bring extremely positive results. This fact has been proven based on the analysis of the “zero accidents” strategy implemented at PZL-Świdnik S.A. It turns out that thanks to its implementation, the number of accidents has been drastically reduced. The collected data also refer to the company Pass Polska Sp. z o.o. – in this company, due to the lack of above-standard actions, due to the lack of this concept, the number of accidents remains high. The entire dissertation ends with a conclusion, which is a summary of the substantive arguments. A Bibliography and a purely technical List of Charts and Tables are attached to it.

The aim of the work and the main thesis:

The “zero accident” strategy is a planned, long-term effort by an organization to reduce the accident rate, a set of rules of conduct adopted by the authorities of an economic entity of a declarative nature, aimed at minimizing hazards to the work environment. The main goal of this work is therefore to present the essence and analyze the effectiveness of the “zero accident” strategy as an institution combining legal, administrative, managerial and political elements.

The “zero accidents” strategy is a new legal and economic entity of unclear legal origins. The strategy in question is based on actions that are not mandatory, i.e. those that result from organizational necessity, development aspirations, and not the letter of the law. It is complex in nature, as it takes into account elements of an economic nature (assessment of the effectiveness of incurring additional costs for implementing actions that are not mandatory and minimize hazards to the work environment, resulting in reduced losses due to accidents at work) and legal conditions that manifest themselves in a specific form of its implementation in practice, as well as the issue of its positioning in the

area of company labor law.

For the above reasons, the supplementary aim of the work is to indicate to the health and safety services the purposefulness of implementing new organizational solutions that improve the conditions of occupational safety. This is all the more justified, because the doctrine of labor law was mainly limited to the description of specific regulations or their application to specific situations, while omitting references to the above solutions developed on the basis of practice and other sciences, e.g. management, which do not fit into the classical canon of legal sciences, which raises the question of the essence and nature of these solutions. Due to the lack of appropriate literature in this area, these considerations are worth supplementing.

Serious business entities also conduct detailed analyses of the causes of accidents. Therefore, it describes how PZL-Świdnik S.A. deals with this problem. Pass Polska Sp. z o.o. is not mentioned in this case, because this entity does not envisage creating RCA (Root Cause Analysis). According to the author, internal labor law acts should include not only documents such as collective agreements, collective agreements, regulations and statutes, but also documents of a specialist nature, such as job instructions or OPL (one-minute lesson).

In this part of the dissertation, a survey of trade unions operating in Pass Polska Sp. z o.o. and PZL-Świdnik S.A. was also conducted. The aforementioned organizations are representative, which was confirmed by specific statistics. Oral interviews were also conducted with employees of the companies to verify the truthfulness of the respondents. Thanks to these accounts, it is possible to learn about the realities of the functioning of the occupational safety system, how the relations between the staff are shaped in the political context.

Documents implementing the "zero accidents" strategy constitute a source of company law. The result of these activities is to minimize the number of accidents at work. The employer has a statutory obligation to organize work in a safe and hygienic manner and to ensure compliance with health and safety regulations and principles, hence within a given workplace, documents creating the scope of the "zero accidents" strategy and implementing it in business practice can be considered a source of company law.

Supporting theses:

- The applicable labor law regulations create a general and at the same time minimum



standard in the field of health and safety, which for individual entities is specified by the norms of company law.

- Individual production, where the foundation is to provide the customer with goods of the highest quality, encourages the increase of occupational safety standards, while piecework production does not generate sufficient economic incentives for changes in this matter.

Research questions:

- How did the development of health and safety regulations shape itself in the Polish legal system and were the appropriate normative solutions adopted (unilateral, absolutely binding norms)?
- What is the effectiveness of the applicable normative solutions in the context of the level of accidents at work?
- What was the scope and mode of practical implementation of the assumptions of the “zero accidents” strategy?
- What is the attitude of employees and trade unions representing them towards the adopted “zero accidents” strategy and do they feel an improvement in work safety conditions?

Research methods:

On the theoretical level, the work includes a condensed presentation of the genesis of the current development of the legal status in the field of occupational health and safety regulations, formulated by labor law. The aforementioned purely conceptual considerations are based on the Labor Code, implementing acts and regulations related to the Code. The position of doctrine and case law in relation to generally applicable solutions is presented. An interpretation of company regulations that apply in the enterprises described in the work (i.e. PZL-Świdnik S.A. and Pass Polska Sp. z o.o.) is also made - by carefully describing these regulations, the dissertation fits into the science of administration, because managing a large private enterprise is not possible without building an administrative apparatus. This approach is similar to the views of Jan Szreniawski, who believed that administration is a specific organization and its activities, an organization created to carry out specific tasks. Arkadiusz Sobczyk, on the other hand, considers the workplace to be an administrative facility. The results of the author's survey were described, which indicates the occurrence of tensions and conflicts between management

and trade unions, as specific social organizations. Hence, the dissertation also fits into the science of politics.

On the empirical level, the work analyzes various statistical data, based on which the main thesis, auxiliary theses and research hypotheses are verified. The visual presentation of the described issues definitely facilitates understanding the main subject of the work. For the reader's convenience, each graph has a corresponding table attached at the end of the chapter, because some drawings, due to the level of their detail, lose their legibility.

The empirical analysis focused mainly on people injured at work in general. Much attention was paid to the effectiveness of the overall inspections and decisions issued by the National Labor Inspectorate. In order to understand the shape of the labor market, the problem of people employed in hazardous conditions was described in more detail.

According to modern methodological canons, the result of scientific research should be new and measurable, and should be recognized as a creative work. To achieve this goal, this work uses research methods appropriate for individual scientific disciplines. In the field of legal sciences, the historical-legal method was mainly used in the chapter and the legal-dogmatic method, expressed in the interpretation of applicable health and safety regulations.

In turn, in the political science layer, a diagnostic survey in quantitative terms, the decision-making method, and the institutional-legal analysis method were used. In addition, statistical data on accidents at work in the years 1990-2020 were used. The fundamental premise in selecting this scope was the fact of fundamental political and economic changes that took place after the systemic transformation, fundamentally changing the functions, roles and importance of the administration.

The adoption of such a long research period allowed us to obtain significant results on the accident rate in the era of economic transformation of the emerging market economy, and to obtain conclusions on whether the popularization of the zero accident vision can help increase the level of employee safety. The final research period allows for the analysis of three decades of changes – this is a deliberate procedure that allows for drawing appropriate conclusions. A possible extension of this statistical scope would not affect the conclusions drawn in any way. Data on the scale of accidents at PZL-Świdnik S.A. in the years 2010-2019 were compared, covering the period before and after the

implementation of the “zero accidents” strategy. The shorter analytical scope in this case results from the problem of unavailability of data for the analyzed entities. Selective information presented by companies implementing a similar strategy was also used. The collected data clearly show that a private enterprise can voluntarily impose more restrictive occupational health and safety requirements than those imposed by the legislator, thereby significantly reducing the number of accidents at work. The spatial scope of the dissertation therefore covers both the entire country and the local area in which selected enterprises operate. Many of the conclusions contained in the work can be successfully transposed to all developed economies.

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