

Governance structures in safety and health at work area: the case of European agency for safety and health at work

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ABSTRACT

The European Agency for Safety and Health at Work (EU- OSHA), the body responsible for formulating safety and health standards at work to be adopted by companies in the European Union (EU), can be considered an example of organization whose general rules of interaction with the body of the EU member countries aim to act in order to promote cooperation and reduce the conflicts in this area, which has a high degree of complexity due to the joint participation of public and private agents in the development, implementation and joint review of the standards of occupational safety and health (OSH), as well as structuring incentives that affect the costs in all economic sectors. The cooperation promoted by EU-OSHA before the EU member states is through policies necessarily adopted by all, as well as specific programs such as the creation of economic incentives in the area. Besides the complexity mentioned above, there are conflicts that happen because each country has its own culture and economy with particular characteristics, where the agency should act keeping the minimum level of uniformity of actions respecting these particularities. This work aims to analyze the governance structure that coordinates the EU-OSHA initiatives before the agencies of the EU countries. In this analysis, tools to ensure consistency of norms between the EU-OSHA and agencies of member countries have been investigated, as well as the compatibility of these instruments with incentive structure to promote OSH in EU. It is concluded that the EU-OSHA effectively coordinates local agencies through a hybrid governance structure, in which the construction and application of OSH policies require the participation of public and private agents effectively. The instruments adopted by the agency have the consistency and compatibility needed for the promotion of cooperation and conflict reduction.

Keywords: Occupational Health and Safety. Hybrid Governance Structure. Strategic Center in OSH. Public Policies.

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1. INTRODUCTION

Occupational safety and health (OSH) is a multidisciplinary approach to the recognition, diagnosis, treatment and prevention of diseases, injuries and other adverse health conditions resulting from exposures in the workplace, an environment which may present hazards, affecting up to the house and the community (Viaro, 2014, p. 59).

Thus, faced with an area of such importance and scope, in which the participation of private agents in the state coordination is essential so that results are achieved. The development of effective policies is only possible through the application of a hybrid governance structure, which is based on an inter-organizational model of cooperation between the different actors involved, combining incentives and controls, under the coordination of a strategic center, in this case, State agent (Viaro, 2014, p. 59).

This study applies the approach developed by Viaro (2014, p. 5): the definition of a strategic center in OSH demonstrates the role of a coordinating agent of private actors to the success of incentives and controls in the development of public policies. This definition was applied due to the concept of strategic center developed by the economist Claude Ménard, which is aimed specifically at infrastructure regulation in agreements between companies (such as joint ventures, strategic alliances, etc.), interaction between institutional reforms and organizational changes whose contribution shows that the strategic center is responsible for the manipulation of incentives and controls in hybrid structures in order to preserve the relationship between the agents.

Within legal regulations one can distinguish different systems, some based on the principle of financial incentives/deterrence (where the focus is on the outcome) and others based on norms (where the focus is on the process) (EU-OSHA, 2010, p. 24).

Thus, the study aims to analyze the governance structure that coordinates the initiatives of the European Agency for Safety and Health at Work (EU-OSHA) on the agencies of the EU countries. To this end, instruments that guarantee the consistency of norms between the EU-OSHA and agencies of member countries as well as the compatibility of these tools with the incentive structure to promote OSH within the EU were investigated.

The methodology consisted of the research literature in books, academic journals and databases of theses and dissertations on topics: governance structures; economic incentives; rules; strategic center in hybrid structures; and OSH policies in EU. In order to understand the implementation of the strategic center concept in OSH in a hybrid governance structure is

necessary to describe what incentives and controls in OSH are to further define strategic center in the area. These issues will be presented respectively in the first, second and third sections of this article. In the last section, it will be presented the case of the EU, which created the EU-OSHA. This agency is an example of a strategic center that develops and coordinates major actions for the promotion of occupational health followed by the conclusion of the paper.

1. INCENTIVES IN OSH

Economic incentives in OSH can be defined as processes that reward organizations for safe and healthy workplaces. From a European perspective, incentives are seen as an effective tool complementary to OSH regulation aimed at encouraging businesses at the management level to provide good OSH (OSHWIKI, 2013). It can be included, by the EU-OSHA, among others (EU-OSHA, 2011, p. 7):

- **State subsidies:** Companies that improve working conditions could be given financial payments or favorable access to finance conditions (bank loans). For example, a government might sponsor companies to invest in safe machinery or safer work organization.
- **Incentives based on tax systems or tax structures:** Taxes can be tailored to encourage businesses to act a certain way. For instance, tax breaks could be offered to employers who invest in equipment that is safer than specified in the minimum legal requirements.
- **Insurance premium variation:** The insurance premium paid by a company could be linked to its safety and health performance. Companies with low accident and disease rates, or good safety practices and management, could pay lower premiums.

Instead of the so-called “command-and-control” approaches market-based instruments use the power of incentives to convince employers, acting more or less in their own best interests, to improve their working conditions.

The incentive system is a complementary tool that aims to encourage the employees to improve their working conditions. The traditional strategy of OSH is the “command-and-control”, based on the specification of normative legal requirements and the desired level of safety and health (ELSLER; NIKOV, 2003, p. 911). Thus, incentives and controls should

always be enhanced to develop new ways to improve the working environment. The definition of controls in OSH is presented below.

2. CONTROLS IN OSH

The controls are impositions commands, in OSH vast area can be considered, due to characteristics of the different economic activities, as well as the economy and culture of each country and region.

Unlike the incentives, which may or may not be developed and implemented in any country, depending only on the knowledge and interest of policy makers in the area, as well as its rulers, the controls are necessarily required in any working environment because the employers want the best performance of their employees and every worker has the right to exercise their labor activities with minimum health and safety conditions . Because of these reasons, the agency's efforts considered a benchmark in the field worldwide, the International Labor Organization (ILO), are largely aimed at the controls, or rather, to identify risks of any kind for the most different fields of work, contributing to minimize or eradicate them.

OSH controls, developed by the ILO, can be defined as a system of international standards covering matters related to the work for which the member countries that ratify, create local legislation aimed at adopting good practices to which the rule refers, resulting in specific regulations for each job sector that, from its adoption, become mandatory practices in companies.

In order to link economic incentives to controls, such as audits or intervention programs, a regulator that has adequate technical knowledge and also the authority to centralize and standardize the data is necessary in order to reach a possible balance to the OSH scenario of each country. As shown below, the EU has managed to create such an agent that, due to the actions which are described on incentives and controls, can be considered a strategic center in the OSH area, the EU-OSHA. Thus, to understand the operation of this regulator agent, it will be described below the way a OSH strategic center acts.

3. STRATEGIC CENTER IN OSH

From the definition of incentives and controls in OSH, it must be identified the coordination of these actions in an economic system where private and public sector participate, that is, the way a strategic center in a hybrid governance structure acts, in case of this area.

Fiani (2013, p. 35) points out that the concept of strategic center in hybrid arrangements of Claude Ménard, combined with the attributes of this type of arrangement, clearly demonstrates that the role of strategic center is to handle moderate incentives and controls that characterize the hybrid, preserving the link between the agents and thus preventing the loss of specific assets in the form of shared resources.

The need for a strategic center in OSH can be seen in the ILO Convention No. 187 (2006). In this standard, it is highlighted the importance of a national system able to take active steps towards achieving progressively a safe and healthy working environment. This system performs a similar function to a strategic center in the analysis proposed by Viaro (2014). According to article 1 of the Convention, the term *national system for OSH* refers to the infrastructure which provides the main framework for implementing the national policy and national programmes on occupational safety and health.

Following the ILO approach, article 4 of that convention details the role of the national system for OSH, which is aimed at mandatory inclusion of the legislative instrument, the designation of an authority responsible, mechanisms for ensuring compliance with national laws and regulations and the promotion of cooperation between the different actors working in the area.

Recommendation No. 197 "Promotional Framework for Occupational Safety and Health" adopted by the ILO, also in 2006, complements Convention No. 187 of the same title, detailing the national system for OSH attributions.

The mentioned instruments (Convention No. 187 and Recommendation No. 197 of the ILO) clearly characterize the national system of OSH should act as a strategic center where the state, by means of authority must be fully committed to ensuring the active cooperation between the ministries involved, employers and workers' organizations and all other stakeholders that seek to promote good OSH practices.

Strategies for OSH promotion cover different agents, whose relations involve the sharing of resources that vary according to the specificity of the assets involved and should be coordinated in order to achieve efficient outcomes, or rather, the strategic center should handle incentives and controls that address the different types of specific assets observed, consisting of as the assets are specialized for a particular purpose or application, which are determined according to:

- **Localization:** It is observed the "immobility condition" (Williamson, 1985, p. 95), when the asset is conditioned upon a particular location, for example, in laboratories in

the chemical industry, which are required for certain collective protection equipment such as exhaust hoods for handling substances that exude vapors.

- **Physical attributes:** the particularities in physical composition or design that differentiate from similar assets, are easily observed in individual protection equipment in any industrial sector, for example, the types of gloves used in the construction industry have completely different materials and features ones for hospital use.
- **Dedicated Assets:** In this case, when the asset is linked to a future demand, due to the improvement of the OSH sector, which is constantly and depends on the technology and information available at the time, it can be considered that many of the assets will have this specificity. For example, recently it was observed that 70% of cowboys called 'Peons' who participated in a famous Brazilian competition, the Barretos' Rodeo Festival, used helmets specially made for rodeo, weighing about 600 grams and have a steel grille up front that protects from the chin to the forehead. Such equipment is not required, however, with the growing concern for the safety of the professionals in these high-risk situations, as a bull, with about a ton and a meter and a half tall, can trample the competitors when they fall down. Thus, the Ministry of Labor, which has made it mandatory to wear vests covered with iron bars to protect the thorax and spine, should do the same with this other equipment.
- **Human assets:** the need for experience and expertise in matters related to OSH are indispensable in many different sectors. For example, the work in confined spaces may only be performed by professionals who receive specific training due to the high degree of risk associated with these sites.

Due to these specificities, the role of the strategic center in OSH is essential for the assets to be improved, implemented, and evaluated for its proper use. The agency should perform these functions, coordinating the incentives and controls, as can be seen in the case of the EU, as described below.

4. THE CASE OF EUROPEAN UNION

Council Regulation (EC) No 2062/94 of 18 July 1994 created the EU-OSHA, in order to encourage improvements, especially in the working environment, as regards the protection of the safety and health of workers as provided for in the Treaty and successive action

programmes concerning health and safety at the workplace, the aim of the Agency shall be to provide the Community bodies, the Member States and those involved in the field with the technical, scientific and economic information of use in the field of safety and health at work.

The EU-OSHA provides the basis and assists in the drafting of legislation focusing on adopting Community measures for OSH, based on article No. 153 of the Treaty on the Functioning of the European Union (TFEU), legally binding obliging Member States to transpose into national law.

The principles for prevention and control strategies are consecrated in various parts of EU legislation concerning the OSH issues. The Directive 89/391/EEC has a fundamental importance, considering the basic law, on the general principles concerning the prevention and protection of workers against accidents and occupational diseases and it also defines basic principles for all specific directives.

The European Commission published a Community Strategy 2007-2012 that had the ambitious goal of reducing the rate of work accidents by 25%. For this, the simple transposition and implementation of OSH standards in national law of each Member State was not enough. To bring about a change in behavior that would lead to improvements in the health and safety of workers, it is essential the implementation of policy, especially in SMEs. In addition to taking direct measures to ensure compliance with legislation such as the inspection and issuance of fines, OSH policies can be encouraged through economic incentives that reward organizations that develop and maintain a safe and healthy working environments (COM, 2007, p. 3-4).

It is recognized that in many European countries, external economic incentives are discussed as a political instrument to promote OSH in companies. The evaluation by Elsler et al. (2010, p. 289) brings a narrative that provides information about the different incentive systems and their key features such as effectiveness, efficiency and viability. It was observed that for every euro spent on incentive schemes, to € 4.81 is saved through reduced rates of illness and accidents, as well as lower economic absenteeism rates.

Given that, to regulate and promote the health of the worker, a wide variety of agents is required (international organizations, government, employers and workers from different areas, institutions acting in the OSH sector, among others) that need continuity in their connections to manage in the best way transactions with specific assets, namely, coordinating the activities of all agents. In order to reach the best possible working environment and minimize the rates of accidents and work-related diseases, it is essential a functional hybrid

structure, with the definition of a strategic center with the capacity to enforce the suggestions for the cooperation of private actors.

Finally, the agency, as described, maps trends and underlying factors and anticipates changes at work and their likely consequences for safety and health. Moreover, it aims to stimulate debate and reflection among stakeholders and provide a platform for dialogue between policy makers at various levels, promoting a balance between incentives and controls, as will be shown below.

4.1. The incentives

The European Community Strategy 2007-12 OHS recognizes that there is a need to use economic incentives to motivate enterprises to apply good prevention practices at work. The EU-OSHA contributed to respond to this need by providing information on the types of economic incentives that are more likely to success. The research has shown that external incentives can motivate further investments in prevention of all organizations and consequently reduce accident rates (COM, 2007, p. 12; EU-OSHA, 2010, p. 7).

Some EU Member States already offer various kinds of financial rewards for businesses that invest in keeping their employees safe. These rewards range from state subsidies and grants, through to tax breaks, preferential terms for bank loans, and lower insurance premiums for the best-performing businesses (EU-OSHA, 2011, p. 6).

Economic incentives to promote OSH, found in European countries are (EU-OSHA, 2010):

- Insurance premium variation, for example, depending on:
 - accidents and diseases at work,
 - specific risk of the sector, or
 - the prevention activities, such as training, investments, personal protection;
- State subsidies, for example, for investments in innovation or reorganization;
- Tax incentive;
- Improved banking conditions, for example, lower interest rates.

Economic incentives in OSH, refer to processes that organizations develop to maintain the working environment safe and healthy. For this, it should be examined how companies

and employers can be influenced and motivated to improve their performance in OSH (EU-OSHA, 2010, p. 14).

Working conditions influence the business competitiveness of every enterprise. Poor working conditions result in additional costs for companies and a poor image among their workforce, clients, customers and the public at large, which is becoming more and more sensitive to safety and health issues. Working conditions also affect employees' physical, moral and social well being and consequently a firm's productivity and the quality of its products and services (EU-OSHA, 2010, p. 18). The Commission's 2007-12 strategy is clear in the Social Agenda:

Companies which invest in active prevention policies to protect the health of their workers obtain tangible results: reduction in costs arising from absenteeism, reduction in staff turnover, greater customer satisfaction, increased motivation, improved quality and enhanced company image. These positive effects can be reinforced by encouraging workers who work in a healthy environment to adopt lifestyles which improve their general state of health (COM, 2007, p. 12).

EU-OSHA (2010, p. 106) points out a series of case studies on successful OSH economic incentives in its Member States, which will be summarized in Table 4.1 below.

Table 4.1 – Overview of case characteristics

Country	Title	Type of incentive	Scope	Target group
Poland	Supporting SMEs in OSH management Subsidy	Government	Capacity-building, OSH management and preventive culture	SME focus
Results		✓ Providing assessment of needs in the field of working conditions in SMEs; ✓ Developing guidelines for hazard identification and risk assessment in the workplace; ✓ Developing manuals for the training of OSH consultants; ✓ Establishing a network of OSH consultants; ✓ Providing OSH-related training for over 1,250 workers, employers and representatives of sectoral chambers of commerce; ✓ Providing grants to co-finance advisory services in the field of OSH; and ✓ Providing grants to co-finance the purchase of individual and collective protective equipment and emergency and information devices.		
Poland	Promoting a systematic approach to OSH management in Polish enterprises	Subsidy Indirect effect: premium discount	Promotion of OSH management	Individual companies, SME possible

Results	<ul style="list-style-type: none"> ✓ In 70% of companies accident rates and consequently costs of occupational accidents have decreased significantly; ✓ In 50% of companies the number of employees working in hazardous conditions (in which exposure exceeds MAC or MAL) has decreased; ✓ O 70% of companies will benefit from a drop in their insurance premium; ✓ O The successful implementation of an OSH management system was put forward as the direct result of the collaboration, and the decrease in insurance premium as an indirect result. 				
	Austria	Low-cost consultancy for safety and health management (SGM) by Austrian SMEs	Low-cost consultancy	OSH management	Individual companies, SME possible
Results	<ul style="list-style-type: none"> ✓ Concerning the initiators of the project: Professionals with experience applying various management systems (ISO 9001, etc.) receive support from well-trained staff on environmental and quality management systems and from experts who are trained on OSH matters. ✓ Concerning AUVA consultants: The head of the SGM department as well as all AUVA consultants have a high level of expertise. ✓ Concerning the target group: AUVA consultants have publicized the SGM approach well throughout Austria. ✓ Concerning the methodology used: The process-oriented approach made it easier to carry out, especially for small enterprises which have not had much experience with OSH management systems. ✓ Concerning the consultancy costs: Consultancy fees are relatively low. Should the company need more consultancy hours, these are provided free. 				
	Denmark	The Prevention Fund	Subsidy	Prevention of early retirement	Sectors, vocational groups, companies, SME friendly
Results	<ul style="list-style-type: none"> ✓ Monitoring applications of approved projects. ✓ Project management with low administrative burden. 				
Results	Italy	Business financing for programmes and projects in the area of occupational safety and hygiene	Subsidised bank credit with lower interest rate	Compliance with OSH requirements, OSH management, decrease in accidents and injuries	Sectors, groups of companies, SMEs
	<ul style="list-style-type: none"> ✓ Statistical analysis of the effectiveness of preventive actions. ✓ Participating companies reported a fall 13-25% in accidents in comparison with averages. 				
Results	Belgium	The Experience Fund	Subsidy	Employability of older workers	Sectors, companies
	<ul style="list-style-type: none"> ✓ The incentive was open to companies from all economic sectors. ✓ Its application allowed to identify the specific problems of companies and take necessary measures in accordance with the specificity of the sector. ✓ The provisions of incentives are clearly defined in national law. ✓ Constant assessment of the incentive and the resulting changes were planned. ✓ The creation of a best practices database allowed the government and the companies change their organizational work, learning from other experiences. 				

Source: adapted by EU-OSHA (2010, p. 190-1).

The focus was on incentive schemes that encourage future OSH activities and are not based only on past events. In addition, most of the incentive models presented are open to all sizes of enterprises including SMEs, or even offer special benefits for small enterprises such as the Danish Prevention Fund or the Belgian Experience Fund. (EU-OSHA, 2010, p. 187).

Larger companies are usually better informed and have more resources to deal with the administrative requirements of the projects. Incentive programmes should take into account the most appropriate methods of informing and supporting the target group. In several cases, it was noted that small and micro-enterprises were more difficult to motivate than the larger ones (EU-OSHA, 2010, p. 187).

Traditional experience-rating schemes which are based only on accident figures sometimes work against SMEs because of statistical effects. Even if SMEs have more accidents per worker than larger companies, a work accident is still a very rare event in a small enterprise (EU-OSHA, 2010, p. 187).

Therefore, incentive schemes that focus on prevention efforts, such as training or investment in safer machinery, are more attractive for SMEs. If the companies see a clear link between their prevention effort and the reward by an insurance or funding scheme, the motivational effect will be much higher. Investigating the specific needs of the target group beforehand can improve the adherence to and effectiveness of the incentive (EU-OSHA, 2010, p. 187).

Some case studies, mainly those based on subsidy schemes, report difficulties in motivating enterprises to apply for the scheme. Different reasons have been put forward to explain these problems and several solutions have been proposed (EU-OSHA, 2010, p. 187).

Success factors that were observed include the presence of an evaluation system with clearly defined indicators, the support of local authorities, industry associations and social partners to monitor the actions over time and to guide and support companies in the implementation (EU-OSHA, 2010, p. 187).

4.2. The Controls

The legal control in the EU is regulated in the form of policy which can be defined as a legal act under the Treaty on European Union (TEU), binding in its entirety and linking Member States to transpose into national law the deadline set (UE, 2010, p. 18).

EU policies related to OSH have the legal basis of TFEU article 153, which gives the EU the authority to adopt guidelines in this field, to support and to complement the actions of Member States in the following areas, among others (UE, 2010, p. 114):

- improvement, in particular of the working environment, to protect the health and safety of workers; and
- working conditions.

Since then, several directives have been adopted to establish minimum safety and health requirements for the workers' protection, that are considered among the most stringent legal controls in the world (EFILWC, 1994, p. 9). The established categories are as follows:

- The OSH Framework Directive
- Workplaces, equipment, signs, personal protective equipment
- Exposure to chemical agents and chemical safety
- Exposure to physical hazards
- Exposure to biological agents
- Provisions on workload, ergonomical and psychosocial risks
- Sector specific and worker related provisions

Thanks to the adoption and application in recent decades of a large body of Community laws, it has been possible to improve working conditions in the EU Member States and make considerable progress in reducing the incidence of work-related accidents and illnesses. (COM, 2007, p. 2).

In the case of the EU, it is clear the role of the EU-OSHA as a strategic center. When shown the economic incentives and controls, as well as their respective case studies, it is explicit that coordination thereof, provided by the performance of the EU-OSHA, through its interaction with stakeholders, provides considerably effective and efficient actions of OSH field.

CONCLUSION

The EU case study demonstrates the resulting possibilities of using incentives and controls to achieve objectives of the OSH policy, suggesting that the use of incentives may represent an interesting solution, in that saves cost control and shown effective in promotion of OSH objectives for the induction of a more appropriate behavior by agents.

The EU-OSHA (2010, p. 8) publishes regular data on this issue and reports evidence showing that economic incentives motivate organizations to invest in OSH, changing behavior of the employees, resulting in reduced fees related to accidents and diseases resulting from work.

Regardless of cultural and economic characteristics of each country, it is observed that the promotion of incentives and controls only brings benefits to all concerned. However, for the implementation and monitoring of such tools show effective results, the definition of

strategic center is fundamental to the achievement of such proposals. It's not enough just the definition of an incentive for it to be successful, or the imposition of a control to be adopted by the target audience. Without proper coordination between public and private actors, the possibilities of emergence of gaps and conflicts that cause wear and tear on the relation of those involved (and specific resources assets be depreciated) can be considered high, which can prevent the development of the sector.

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