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**Representation and participation of employees
in the sustainable enterprise**

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Abstract: The climate crisis has become one of the main priorities on the international political agenda, imposing the urgent need to articulate regulatory and strategic responses to mitigate its effects and move towards sustainable development models. The protection of the environment and the fight against climate change require a coordinate commitment at multiple levels, bringing together public policies, business strategies and the active participation of workers. In this context, labour law and industrial relations play a central role in shaping a productive model compatible with the objectives of sustainability and social justice, ensuring that the ecological transition is carried out in a fair and inclusive manner, in line with the principle of «leaving no one behind».

The labour dimension of sustainability implies the assumption of effective commitments by companies to reduce their environmental impact, in line with the climate neutrality targets set by the European Union for 2050. In turn, it is imperative to strengthen the mechanisms for the participation of workers and their representatives in the environmental governance of companies, recognising their involvement as an essential element in shaping decent work, in accordance with the postulates of the International Labour Organisation (ILO, 2024).

This proposal is part of the debate on a just ecological transition, highlighting the relevance of collective bargaining and social dialogue as key instruments for integrating sustainability into labour relations. However, the current regulatory and conventional framework shows significant limitations, given that many environmental clauses in collective agreements are merely declaratory in nature, without effective enforcement mechanisms. In this sense, it is essential to rethink regulations to strengthen the rights to information, consultation and participation in environmental matters, providing workers' representation with adequate powers to influence business decision-making with an environmental impact.

In order to do this, three crucial aspects will be analysed. Firstly, it will address the need to reformulate and strengthen the rights to information and consultation on environmental matters provided for in the Workers' Statute and in the Law on Preservation of Occupational Risks, in line with the obligation of 'constructive collaboration' imposed on companies by Directive (EU) 2024/1760 on sustainability due diligence. Secondly, it will examine the desirability of institutionalising specific mechanisms of representation in the environmental field, such as the figure of the environmental delegate and environmental committees in companies, with the aim

¹ This work is part of the Research Project: PID2021-124045NB-C32. The strategies of trade union organizations and the role of the social partners in the process of just transition, climate change and respect for the environment (PI: Dulce María Cairós Barreto).

of consolidating effective participation structures. Thirdly, the importance of specialised training and technical advice to foster effective consultation processes will be underlined.

In the same way, it will also analyse the preventive challenges arising from the ecological transition, with special attention to the implications that changes in production models may have on occupational health. Based on the report «Ensuring occupational safety and health in a changing climate» (ILO, 2024), the adaptation of the current regulatory framework for occupational risk prevention to the new climatic and environmental realities will be examined, assessing its capacity to respond to the emerging challenges in the most affected sectors.

In the end, the aim is to formulate regulatory proposals that will enable the configuration of an integrated management system for prevention and occupational safety in environmental terms, moving towards the adoption of a General and Integral Law on risk prevention and environmental quality in the workplace, which incorporates guiding principles, institutions and coordination mechanisms that guarantee the protection of the working environment and the natural surroundings.

1. Towards a socially just ecological and energy transition: workers' environmental participation as a premise for decent work

The protection of the environment and the fight against the effects of climate change are currently unavoidable challenges that require a multi-level commitment and the adoption of comprehensive and coordinated strategies that include forceful and effective actions (Ramos, 2024). The climate emergency has become a global political priority, as evidenced by SDGs 7, 8.4 and 13 of *the United Nations 2030 Agenda for Sustainable Development adopted in September 2015 by the 70th UN General Assembly*. In particular, SGD 8 sets as its target 4 «to progressively improve the efficient production and consumption of the world's resources by 2030 and aim to decouple economic growth from environmental degradation».

The environmental repercussions of the effects of climate change not only affect the natural environment and citizens but specifically impact on people in the course of their work (ILO, 2018; ILO, 2023).

In the labour sphere, social and labour policies must integrate sustainability as a central axis and companies must assume real and effective commitments to reduce their environmental impact (Chacartegui, 2024), thus contributing to the objective of climate neutrality by 2050 adopted by the EU² favouring a fair and inclusive energy transition and fulfilling the premise of «leaving no one behind»³. The transition towards a sustainable model must also be socially just (Álvarez.

² Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) 401/2009 and (EU) 2018/1999; and Regulation (EU) 2023/857 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action, in order to meet the commitments under the Paris Agreement, and Regulation (EU) 2018/1999.

³ In the European Commission Communication of 23 February 2022, *decent work worldwide for a global just transition and a sustainable recovery* [COM(2022) 66 final], *decent work* is defined as work that promotes productive employment, respects labour standards and rights, ensures social protection, and fosters social dialogue as an integral part of its development.

2022a: 155). This implies guaranteeing decent working conditions, promoting social inclusion, eradicating poverty and, simultaneously, protecting and defending the environment (ILO, 2016).

Workers, and specifically their representatives at company or workplace level, are «essential allies in implementing just transition» (Álvarez, 2022a: 114). The link between workers and environmental sustainability not only responds to their participation in productive processes that generate a negative environmental impact, but also to the harmful effects on health that they face in cases where there is inadequate environmental management on the part of the company or derived from the deterioration of the environment (Martín-Pozuelo, 2023:14-15)⁴. Such damage results in harmful effects on the health of workers triggered in the workplace or derived from the deterioration of the environment (Rivas, 1999: 10). From this interconnection we can deduce the need to involve workers in the mitigation of the environmental impacts of companies, as they can play a fundamental role as agents of change in the transition towards a sustainable production model and in the fight against climate change⁵.

Furthermore, the participation of workers and their representatives in the environmental issues of companies has been considered an inescapable premise for decent work (Pérez, 2020: 113) and a crucial element in the negotiation of measures to mitigate the effects of climate change and also to know, monitor and ensure compliance with the commitments made by companies in this area.

In this sense, it has been indicated that «for work to be authentically decent (...) it must also be respectful of the environment (...); and for this it is necessary that Labour Law promotes, effectively and truly, the right of participation of workers in the company, to which end, the right to information of their representatives has – must have – a place of honour» (Pérez, 2020: 113).

Certainly, the most powerful tool for channelling the participation of workers in the fight against climate change is collective bargaining. This being the traditional mechanism for intervention and transformation of labour and business relations, and the core of social dialogue, making it possible to integrate environmental issues into labour agreements, promoting specific commitments that can be adapted to sectoral or business needs, overcoming the limitations of generalist regulations (Álvarez, 2022a: 97).

In addition, the *ILO Policy Guidelines for a Just Transition to Environmentally Sustainable Economies and Societies for All* encourage the inclusion of «specific environmental provisions through collective bargaining and collective agreements at all levels, as appropriate, as a concrete way of facilitating cooperation between employers' and workers' organisations and encouraging them to respect

⁴ To the occupational health risks associated with climate change (particularly in certain productive sectors) must be added the job insecurity arising from the new skills and competences demanded by the sustainable economy, as well as the challenge of job stability in companies that fail to properly adapt their models to environmental standards. To address these challenges, an integrated approach is essential—one that links labour and environmental policies, with a central role for collective bargaining and social dialogue. Only in this way can the transition to a sustainable economy be inclusive, fair, and effective for both workers and society as a whole. (Martín-Pozuelo, 2023:14).

⁵ In this regard, Objective 47 of the Citizens' Assembly on Climate Change, aimed at “promoting the involvement and participation of workers”, includes several recommendations aligned with this goal (Recommendations Nos. 131, 132, 133, and 134).

environmental regulations, including but not limited to emission reductions, to meet company sustainability objectives and to develop training for workers and managers» (paragraph 24)⁶.

Despite the evident trend line, the incorporation of clauses related to climate change in collective agreements continues to be limited and, on many occasions, relegated when used as a bargaining chip in negotiations, prioritising the improvement of other working conditions⁷. In most cases, these provisions are formulated as mere declarations of principles lacking effective monitoring and control mechanisms, and therefore without guarantees of compliance (Chacartegui, 2021:42). This programmatic character in their formulation significantly constrains their real impact in the fight against climate change and in the promotion of sustainable practices in the workplace.

However, it is worth noting that some collective agreements have managed to overcome these shortcomings, incorporating concrete measures that go beyond mere declarations of intent (Martín-Pozuelo, 2023:14)⁸. To promote the extension of these dynamics and move towards collective agreements that are more committed to environmental sustainability, it is essential to strengthen the rights of information and consultation of workers' representation in this area. This would result in greater awareness among staff members, which could facilitate broader support for the achievement of this type of agreement, promoting a working environment that is more aligned with environmental objectives (Pérez, 2020:112).

Nonetheless, the participation of employee representation is not only crucial in the negotiation of measures to mitigate the effects of climate change, but also to know, supervise and ensure compliance with the commitments made by companies in this area. However, the competences of information and consultation conferred by current regulations on employee representation are generic and insufficient to address the challenges arising from the current climate change emergency scenario, something that has not been corrected with the desired determination by the Just Transition Strategy⁹ – 2020 (Canalda, 2021). It is therefore essential to reformulate the right to participation of workers' representatives in order to ensure a fair ecological transition (Álvarez, 2022a: 95). To this end, it is necessary to undertake a regulatory reform that integrates sustainability into the labour sphere and provides workers with effective legal and organisational tools to participate in the environmental management of companies (Chacartegui, 2021: 106; Álvarez, 2022b: 116). All of this reinforces the role of these representatives as key interlocutors, fostering a «privileged space» for the development of new dynamics of collaboration between

⁶ ILO: Policy Guidelines for a Just Transition...cit.

⁷ This approach reflects a prioritisation of short-term interests, to the detriment of a strategic vision that integrates environmental sustainability as an essential component of labour relations and economic development (Rivas, 1999: 22 and 26).

⁸ On the importance of incorporating measures that encourage the inclusion of this matter in collective bargaining, such as those provided for in Article 31 and the seventh additional provision of Law 7/2021 of 20 May, on Climate Change and Energy Transition.

⁹ The Just Transition Strategy (Institute for Just Transition, 2020), established under Article 24 of Law 7/2021, serves as a crucial mechanism to ensure that the ecological transition not only addresses environmental imperatives but also incorporates considerations of social and labour justice in its implementation. This objective is clearly reflected in two of its core pillars (E and F): active green employment policies and green vocational training, which aim to prevent labour exclusion resulting from the ecological transition and to promote integration into new sustainable sectors (Hernaiz, 2023: 69–82; Canalda, 2021).

social actors, based on principles of involvement and co-responsibility (Monereo and Rivas, 2010:188).

The promotion of workers' participation in environmental matters requires measures to: a) institutionalise specific channels of representation; b) strengthen workers' specific information and consultation skills in environmental matters; c) provide specialised training and technical advice to give representatives effective tools to influence business decisions related to sustainability.

2. The general framework for corporate transparency on environmental and climate issues

The Spanish regulatory framework has made significant progress in guaranteeing the rights of access to information and public participation in environmental matters, particularly in relation to climate change. Specifically, Law 27/2006 of 18 July 2006, which regulates the rights of access to information, public participation and access to justice in environmental matters¹⁰ recognises two basic rights in environmental matters. On the one hand, the right of access to environmental information and the right to participate in decision-making procedures on matters that directly or indirectly affect the environment and whose preparation or approval corresponds to the Public Administrations (art. 1.1). On the other hand, it guarantees the dissemination and availability to the public of environmental information, gradually and as broadly, systematically and technologically as possible (art. 1.2).

These rights have been reinforced with the approval of Law 7/2021, of 20 May, on Climate Change and Energy Transition (LCCTE), which extends them to specific climate change and energy transition issues¹¹. Thus, article 39 LCCTE recognises the right of participation of interested social and economic agents, as well as the general public, in the formulation of plans, programmes, strategies, instruments and regulatory provisions of a general nature in accordance with the provisions of Law 27/2006. To reinforce this participatory dimension, the Citizens' Assembly on Climate Change¹² was created to foster an informed, deliberative and responsible debate on the transformations needed to achieve climate neutrality by 2050 (Martín-Pozuelo, 2023:16-17).

What is more, article 39 of the LCCTE also guarantees citizens' access to up-to-date information on climate change and energy transition. This commitment is materialised through the creation

¹⁰ Official State Gazette (BOE) No. 171 of the 19th.

¹¹ This law represents a comprehensive regulatory response to address the climate threat and move towards a decarbonised and circular economy, in line with the requirements of the 2015 Paris Agreement. Aiming to minimise the negative effects of the ecological transition and maximise the economic and social opportunities it may generate, its objectives include promoting sustainable development that combines adaptation to climate impacts, the creation of decent employment, and the reduction of inequalities (Martín-Pozuelo, 2023:16).

¹² Order TED/1086/2021 of 29 September, establishing the composition, organisation, and functioning of the Citizens' Assembly for Climate.

and maintenance of a specific web portal, managed by the Ministry for Ecological Transition and the Demographic Challenge in collaboration with other ministerial departments.

With regard to access to environmental information on the production sector or the company, article 32 of the LCCTE introduces a reporting obligation for certain companies to submit an annual report to the National Securities Market Commission (CNMV) on the financial impacts of climate change-related risks arising from their activities. This report, included in the management report, must address the risks arising from exposure to climate change, those related to the transition to a sustainable economy and the measures adopted to mitigate them¹³.

On a complementary basis, some companies were already required to disclose environmental information under article 49 of the Commercial Code (CCo)¹⁴, which after the amendment operated by Law 11/2018¹⁵, requires the inclusion of relevant information in the Statement of Non-Financial Information (NFI) that allows understanding the evolution, results and situation of the company, as well as the impact of its activities on the environment. In particular, the environmental issues to be addressed include the current and expected effects of business activities on the environment, health and safety; the environmental assessment and certification procedures; the resources aimed to prevent environmental risks; the application of the precautionary principle and the provisions and guarantees established to cover these risks (art. 49.6 CCo)¹⁶.

The importance of corporate transparency in environmental matters has once again been highlighted with the adoption of Directive (EU) 2022/2464 on corporate sustainability¹⁷, which in its recital 9 states that if «companies improved information about sustainability, it would ultimately benefit citizens and savers, including trade unions and workers' representatives, who would be adequately informed and therefore able to participate in social dialogue under better conditions». Thus, among the information that companies must disclose regarding «social factors, in particular working conditions, the involvement of social partners, collective bargaining, equality, non-discrimination, diversity and inclusion and human rights», the information concerning «the company's impacts on people, particularly workers, and on human health» must be included (recital 9)¹⁸. The transposition of this Directive into our legal system will entail a

¹³ The content of the report, which must be developed by Royal Decree and published mandatorily on the companies' corporate websites (Martín-Pozuelo, 2023: 18–19).

¹⁴ Royal Decree of 22 August 1885 publishing the Commercial Code (Gaceta de Madrid, 26 October).

¹⁵ Law 11/2018 of 28 December, amending the Commercial Code, the revised text of the Capital Companies Act approved by Royal Legislative Decree 1/2010 of 2 July, and Law 22/2015 of 20 July on Auditing, regarding non-financial information and diversity. **BOE No. 314, 29 December.**

¹⁶ Companies required to prepare a consolidated Non-Financial Information Statement (EINF) must publish it on their corporate website (Art. 49.9 of the Commercial Code). Ruling 3, dated 21 April 2021 (BOICAC No. 125/2021).

¹⁷ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU as regards corporate sustainability reporting.

¹⁸ For the transposition of this Directive, the Draft Law on Corporate Sustainability Reporting was published, amending the Commercial Code, the Capital Companies Act, and the Audit Law (Official Gazette of the Spanish Parliament, 15 November 2024). The deadline for transposing the Directive expired on 6 July 2024 without Spain having incorporated it into its domestic legal system, which led the European Commission to initiate infringement proceedings against Spain (and 16 other EU countries) on 26 September 2024.

significant change for companies regarding the disclosure of their environmental, social, and governance (ESG) activities [Moya, 2024:460-482].

In the same vein, and in response to the EU's objectives to encourage large companies to collaborate in the fight against climate change, promote sustainable governance, and ensure decent work, Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence has been adopted¹⁹. This Directive aims to establish a binding legal framework requiring companies to respect human rights and the environment in their own operations, those of their subsidiaries, and those of their business partners within their chains of activities (global supply chains)²⁰. It demands transparency and proactive efforts to identify, prevent, and mitigate adverse impacts on human rights and the environment, and imposes on companies the obligation to integrate sustainability and human rights due diligence into their internal policies and risk management systems (Rojas, 2023:281-303; Sanguinetti, 2024; Monereo y Ortega, 2024:37-97; Márquez, 2023: 5-36).

Directive 2024/1760 represents a significant step forward by establishing a uniform standard that Member States must incorporate and enforce through their respective national legal systems. It requires companies to carry out thorough checks in relation to human rights and the environment. The Directive also mandates the implementation of measures aimed at preventing and mitigating risks, which could encourage the adoption of fairer business models and put pressure on business partners to comply with established standards. In addition, it insures strong regulatory oversight by granting national authorities the power to impose substantial penalties on non-compliant companies. Regarding access to justice, victims of corporate abuses will be able to bring civil actions before national courts through procedures that are accessible and not excessively burdensome in terms of time limits, costs, and procedural requirements (Rojas, 2023:187). The Directive also introduces the European Single Access Point (ESAP), which will be operational starting in 2029. This will allow public company statements to be accessed through an online database, promoting transparency and access to information (art. 17).

3. The right to information of workers' representatives on environmental matters

Promoting the participation of workers in environmental matters requires, first and foremost, equipping workers' representatives with specific informational rights in this area. To this end, a review of the current regulatory framework set out in the Workers' Statute (hereafter, WS²¹) is undertaken, putting forward proposals aimed at reformulating existing provisions with an environmental focus.

Article 64.1 WS recognizes the right of legal representatives to be informed and consulted on matters that may directly or indirectly affect labour relations. Among these matters are,

¹⁹ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (OJ EU, 5 July).

²⁰ Companies will have between 3 and 5 years to comply, depending on their size and turnover: three years for companies with more than 5,000 employees and a turnover of 1.5 billion euros; four years for companies with more than 3,000 employees and a turnover of 900 million euros; and five years for companies with more than 1,000 employees and a turnover of 450 million euros (Art. 37).

²¹ Royal Legislative Decree 2/2015 of 23 October, approving the revised text of the Workers' Statute Act (Official State Gazette – BOE No. 255, 24 October).

undoubtedly, the specific impacts of climate change on business activity or the productive sector, as well as the strategies adopted to mitigate its effects (Gárate, 2020:156). However, it is essential to reformulate this provision to explicitly incorporate environmental issues, thereby strengthening the role of labour representation in corporate sustainability and promoting a greater integration of environmental concerns into corporate decision-making (Canalda, 2021:14).

Article 64.2.b WS provides that workers' representatives have the right to be informed quarterly about «*the company's economic situation and the recent and foreseeable development of its activities, including environmental actions that have a direct impact on employment, as well as about production and sales, including the production program*». As can be seen, this right to information is limited to «*environmental actions that have a direct impact on employment*» (art. 64.2.b WS), imposing on the company only an *ex post* communication obligation reporting environmental actions or decisions only when there is a direct and detrimental link to employment (Marín, 2015). As a result, other potential repercussions from business activities not directly connected to the environment are excluded²². Moreover, the company may involve the exception set out in Article 65.4 WS to withhold certain environmental information from workers' representatives. An additional significant limitation is that the current composition appears to grant the company exclusive authority to adopt environmental protection measures, relegating any active participation by workers on their representatives to a secondary role (Álvarez, 2022a:114).

In order to overcome the limitations of the current wording, it has been suggested that the right set out in Article 64.2(b) WS should be formulated in broader terms, so that the company is required to inform «about the company's economic situation and the recent and foreseeable development of its activities, including their environmental consequences», establishing the company's duty to «provide the necessary periodic environmental data to detect anomalies in this area» (Martín-Pozuelo, 2023:30).

On the other hand, in light of the recent report *Ensuring Safety and Health at work in a Changing Climate*²³ (ILO, 2024), it is essential to re-examine the right to periodic information granted to workers' legal representatives under article 64.2(d) WS, with the aim of enhancing their participation in the design and implementation of health and safety policies adapted to the current challenges of the climate emergency. Thus, the quarterly information that must be provided – regarding absenteeism rates and their causes, workplace accidents, occupational diseases and their consequences, accident rates, as well as studies of the work environment and the prevention mechanisms used – should incorporate a comprehensive approach that considers the new climate realities and their implications for occupational health and safety. The collection and analysis of absenteeism data should include a detailed assessment of climate-related factors that may influence increased work absences, such as the incidence of illnesses linked to extreme heat, seasonal allergies worsened by environmental changes, or health issues resulting from natural disasters.

²² On the strict interpretation of information rights, Supreme Court Judgment of 2 November 1999 (case no. 1397/1999).

²³ The above-mentioned report highlights that climate change not only intensifies existing occupational risks but also introduces new threats related to extreme temperatures, natural disasters, emerging diseases, and environmental degradation (including cancer, cardiovascular diseases, respiratory illnesses, kidney dysfunction, and mental health conditions).

Conversely, it is essential to identify the impact of extreme weather conditions (such as heatwaves, storms, or floods) on workplace accidents, and to monitor the evolution of occupational diseases that may be linked to environmental changes – such as respiratory illnesses related to pollution or infections caused by vectors that thrive as a result of global warming.

For their part, accident rates should be broken down to reflect the influence of climate change on occupational risks, in order to enable workers' representatives to assess the adequacy of specific preventive measures adapted to each context and sector – such as protocols for extreme temperatures or adverse weather conditions.

As for the periodic or special studies on the work environment and the prevention mechanisms employed, these should explicitly address the effects of climate change on the workplace. This includes, among other aspects: assessing exposure to high temperatures, indoor and outdoor air quality, the impact of natural disasters, and the measures adopted to adapt workplaces to these new conditions. They should also refer to prevention mechanisms aimed at addressing emerging risks stemming from climate change (such as the design or early warning systems for extreme weather events, the adoption of sustainable technologies that reduce exposure to environmental hazards, etc.) [Igartua, 2024: 1-36)].

Finally, the importance has been highlighted of allowing workers' representatives to receive periodic information on various aspects related to the company's activities (art. 64.4 WS) including: a) receiving copies of any documentation the company is required to provide to public authorities regarding emissions, discharges, waste generation, water and energy usage, as well as the measures adopted to prevent major accidents; and b) updated on environmental and sustainable development regulations (Martín-Pozuelo, 2023: 30).

4. The right of workers' representation to be consulted on environmental matters

The effectiveness of access to environmental information must be complemented by the strengthening of consultation and negotiation powers to ensure meaningful participation in building a more sustainable future in the business sphere.

In relation to the obligation to consult on measures concerning just transitions arising from the fight against climate change, it has been considered essential to strengthen the right of workers' representation by explicitly incorporating into Article 64 WS the right to issue a report on the environmental implications of business activities (Martín-Pozuelo, 2023:31). This consultation should be mandatory, and although its conclusions may not be binding in all cases, they should require a reasoned justification if rejected, thus preventing reports submitted by the workers' representatives from being dismissed without prior analysis. Therefore, the aim is to shape the right to environmental consultation as a mechanism that ensures transparent and well-founded dialogue, reinforcing the role of workers' representation as an active agent in the development of sustainable and responsible business strategies. This mechanism is crucial, as it would compel employee representatives to acquire the necessary knowledge to prepare well-founded reports and to propose concrete initiatives that support the improvement of the company's

environmental performance, thereby contributing to its transition towards a more sustainable model.

Considering the profound impacts that climate change has on sectors, companies, and occupations, as well as the adaptations required to meet the objectives set by Regulation (EU) 2021/1119²⁴ and Law 7/2021²⁵, it is imperative that consultation procedures aim to anticipate or respond to climate crisis and to ensure a just transition for affected workers. Consequently, a reform of the second paragraph of Article 64.5 WS is necessary – one that extends the right to information and consultation not only to *«all company decisions that could bring about significant changes in the organisation of the work and employment contracts»* but also to *«environmental matters»*. Furthermore, the right to information and consultation on the adoption of potential preventive measures should be recognized as especially necessary not only *«in cases of risk to employment»* but also *«in cases of risk to the environment»* (Martín-Pozuelo, 2023: 32).

Likewise, and with the aim of ensuring a more comprehensive assessment of the implications of business decisions, it is proposed that the prior report to be issued by the works council in the cases listed in Article 64.5 WS, *in fine*, should also include an explicit reference to the *«possible environmental consequences that such business decisions may have»* (Martín-Pozuelo, 2023: 32).

At present, the labour regulatory framework is evolving to incorporate the environmental perspective as an essential component of occupational health and safety. Consequently, it seems reasonable to propose that Article 33.1(a) of Law 31/1995, of November 8, on the Prevention of Occupational Risks²⁶ (LPRL), which regulates prior consultation on business decisions related to work planning, organization, and the introduction of new technologies, be amended to explicitly include environmental repercussions. This would highlight the impact that equipment, working conditions, and environmental factors may have not only on workers' health and safety but also on the environment. It is also worth emphasizing that some collective agreements extend this consultation mechanism regarding the environmental impact of changes in planning, organization, and new technologies not only to individuals responsible for occupational risk prevention and environmental matters, but also to workers or external agents with advanced knowledge and experience in the field (Laabbas-El-Guennouni, 2023:156).

It is equally essential to revise Article 64.7. (c) WS with the aim of eliminating the discretionary nature of collaboration between employee representatives and company management in matters of environmental sustainability. This provision grants workers' representatives the competence to *«collaborate with company management to establish all necessary measures aimed at maintaining and increasing productivity, as well as the company's environmental sustainability, if so agreed in collective agreements»*. The inclusion of the concept of *«the company's environmental sustainability»* in connection with workers' representation represented an initial step towards a more comprehensive and coherent approach in this area (Álvarez, 2022a: 96). However, in practice, this power of collaboration tends to be meaningless, as its effectiveness is contingent upon its explicit inclusion in collective agreements (Garí, 2013:115). This normative dependency implies that, in the absence of such

²⁴ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ("European Climate Law"). Official Journal of the EU No. 243, 9 July.

²⁵ Law 7/2021 of 20 May on Climate Change and Energy Transition. Official State Gazette (BOE) No. 121, 21 May.

²⁶ BOE No. 269, 10 November.

legal provision, collective agreements could also have independently included similar provisions (Marín, 2015: 397).

Therefore, it seems appropriate to remove the conditional reference contained in the phrase *«if so agreed in collective agreements»*, while still allowing such agreements to specify the particular forms of collaboration. With this modification, employee representation would acquire collaborative competences in this area more generally, without being subject to authorisation through collective bargaining. Likewise, it could be established that this collaboration includes – among other aspects – the ability to propose measures aimed at improving the company’s environmental performance, with the company being obliged to assess them, and able to reject them only with well-reasoned and justified grounds (Martín-Pozuelo, 2023: 30).

5. «Constructive collaboration» in Directive (eu) 2024/1760 on corporate sustainability due diligence

Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence²⁷ promotes the adoption of a binding legal framework requiring companies to ensure respect for human rights and the environment in their own activities, as well as those of their subsidiaries and business partners within their value chains (Rojas, 2023: 289; Monereo y Ortega, 2024: 37-97).

This Directive promotes the strengthening of workers’ representatives’ rights to information and consultation within companies as a fundamental pillar for integrating corporate due diligence at all levels of their operations and risk management systems (art. 7). To this end, consultation with workers and their representatives must include: 1) a description of the company’s long-term approach to due diligence; 2) a code of conduct setting out rules and principles applicable to the company, its subsidiaries, and, where relevant, its business partners; and 3) a process for integrating due diligence into corporate policies, including measures to ensure compliance with the code of conduct and its application to business partners.

In addition, the Directive also highlights the obligation for companies to adopt and implement a «transition plan to combat climate change» to ensure that the company’s business model and strategy are compatible with the transition to a sustainable economy and with limiting global warming to 1.5°C, in line with the Paris Agreement (Arts. 1(c) and 22) (Monereo y Ortega, 2024:87). Although the participation of workers’ representatives in the design of this transition plan to combat climate change is not mentioned, subjecting the plan to consultation would be a key element in facilitating its implementation within the company.

To comply with the set of obligations imposed by the Directive, companies must take appropriate measures to collaborate constructively with «stakeholders» when carrying out due diligence actions (Arts. 3.1(n), 5.1(d), and 13). Effective collaboration should include the provision of relevant and comprehensive information, as well as ongoing consultations that enable genuine interaction and dialogue at the appropriate level. Moreover, these consultation processes must

²⁷ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (OJ EU, 5 July).

duly consider any obstacles to collaboration and ensure that stakeholders do not suffer retaliation (Monereo y Ortega, 2024:82).

Constructive collaboration with workers' representation as stakeholders also includes the establishment and maintenance of a reporting mechanism and complaints procedure. In this regard, Article 14.3 provides that companies must establish – while informing workers' representatives in a timely manner – *«a fair, publicly available, accessible, predictable, and transparent procedure for handling complaints (...), particularly a procedure for cases where the company considers the complaint to be unfounded»*.

Article 15, on the other hand, establishes the obligation for companies to *«carry out periodic assessments of their own operations and measures, those of their subsidiaries, and, where they are related to the company's chain of activities, those of their business partners, in order to evaluate implementation and monitor the adequacy and effectiveness of activities aimed at identifying, preventing, mitigating, bringing to an end, and minimising the extent of adverse impacts»*. The provision adds that *«where appropriate, the due diligence policy, the identified adverse impacts, and the corresponding measures shall be updated based on the results of these assessments, with due consideration of relevant information provided by stakeholders»*.

Both in this case and in situations where a company is sanctioned for failing to comply with the obligations set out in the Directive (Art. 25), consultation with workers' representation becomes a key instrument for designing and adopting appropriate measures to prevent, mitigate, eliminate, or minimise negative impacts throughout the entire chain of operations.

6. Specialised training and technical advice as key tools for ensuring effective participation

Providing environmental information to workers is a necessary step towards integrating sustainability into the workplace. However, this measure alone is not sufficient to ensure effective worker participation in company decision-making, as its usefulness will depend on the recipients' ability to understand its content and analyse it in order to draw conclusions, produce reports, make proposals related to the specific interests and challenges of the sector or company (Tudela, 1988:19), or ensure proper compliance with environmental regulations²⁸.

The lack of technical knowledge on sustainability, environmental management, and climate change represents a significant barrier to the assimilation and effective use of the information provided to workers' representation. In productive sectors not directly linked to environmental sustainability – and particularly within small and medium-sized enterprises – the lack of knowledge in this area is an undeniable reality. Furthermore, the disconnection between the information received and the specific interests of workers tends to worsen this situation, with the risk that the data may be seen as irrelevant or difficult to translate into concrete actions. This deficiency limits not only stakeholders' ability to address the impact of climate change on their

²⁸ The need for environmental training becomes even more relevant in the context of Law 2/2023 of 20 February, regulating the protection of persons who report regulatory infringements and the fight against corruption (BOE No. 44, 21 February).

activities but also their capacity to negotiate and participate effectively in business decisions related to this area.

To overcome these obstacles, it is essential to move forward in two directions. On the one hand, environmental information provided to workers must be clear, accessible, and appropriate to the context of the company or sector²⁹. On the other hand, it is necessary to establish training processes that enable workers – and in particular those in representative roles – to acquire specific competencies in climate change and sustainability, empowering them to interpret such information accurately and align it with the needs and priorities of the group they represent³⁰. This type of training should not only focus on providing basic knowledge about the environmental impacts of business activities, but also on offering analytical tools to assess the economic, social, and labour-related implications of the environmental policies implemented.

Undoubtedly, the existing lack of training in this area hinders the adoption of well-informed strategic decisions and puts at risk the ability of companies and their workers to adapt to the imperatives of environmental sustainability. Consequently, the promotion of continuous training on climate change and its impact on labour relations is not only an act of corporate responsibility, but a genuine strategic necessity for progressing towards a sustainable economic development model that is committed to the global challenges of climate change.

Specialised training in environmental and climate change matters is included in several measures of the ETJ (Spanish Strategy for Employment Training). Specifically, Axis E refers to the need to «support companies' planning regarding training needs related to the ecological transition, as well as access to existing subsidies, with particular emphasis on ensuring adequate training for workers in small and medium-sized enterprises» (measure 6); and to «promote the inclusion of training clauses for the ecological transition of the economy in sectoral agreements signed by companies and trade unions, and the inclusion of such content in the institutions responsible for training provision» (measure 7). However, these references do not impose any specific obligations on companies regarding training, nor has any regulatory amendment been introduced to address this need.

The only legal framework that accommodates training activities for workers' legal representation is found in Article 68(e) of the WS, which grants each representative a monthly allowance of paid hours to carry out their representative duties (Martín-Pozuelo, 2023:25). Although the current

²⁹ The report by the Spanish Network of the Global Compact highlights that nearly 30% of the companies surveyed in 2022 provided training for their employees, and only 8% for their suppliers (percentages that rose to 50% and 12%, respectively, among companies affiliated with the Global Compact) [SPANISH NETWORK OF THE GLOBAL COMPACT, 2022: 37].

³⁰ The **7th Agreement of the Sectoral Roundtable on Energy Valorisation in the Andalusian Cement Industry (2023)**, based on the need to make "economic and social progress compatible with sustainable development and respect for the environment, as well as the responsible use of natural resources and the safeguarding of workers' health to improve quality of life for both present and future generations," includes a commitment by companies "to allocate financial, technical, and human resources to the environmental prevention and control of their industrial facilities". Among the actions to be undertaken, **training of workers in environmental matters** stands out (Art. 15).

legal framework allows some flexibility to allocate training to representatives' time credit³¹, its use for this purpose depends on the individual or collective will and planning of those managing it. In addition, there is a lack of sufficient guarantees to ensure that such training is structured and directed towards the major challenges of sustainability or climate change.

Consequently, and with the aim of ensuring effective performance in the consultation and oversight duties assigned to employee representatives, it is essential to provide them with specialised environmental training that enables them to effectively address the challenges of their role. This training should be structured as a continuous and adaptive process that takes into account the evolving context of global dynamics related to climate change, environmental regulations, and scientific advancements.

In this regard, it is considered essential to undertake reforms aimed at explicitly incorporating into legislation the right of workers' representatives to receive adequate environmental training (specialised training programs), enabling them to critically analyse company actions, make concrete proposals aimed at improving the company's environmental performance, and issue corresponding reports. Additionally, a specific time credit for training in sustainability and environmental matters should be recognised, or the existing time credit allocated to these representatives should be increased so they can carry out tasks related to environmental issues – particularly training. In this respect, a 10% increase in the time credit is proposed, in order to avoid placing an excessive burden on companies (Martín-Pozuelo, 2023:33).

Alongside the need for specialised environmental training for workers – particularly those in representative roles – another important challenge must not be overlooked: situations in which it is necessary to address issues requiring a high level of technical expertise.

The current legislation does not provide a concrete solution to ensure that workers and their representatives have the technical resources necessary to address complex issues. The existing legal framework merely provides, in a general way, for the possibility that the negotiation committee of a collective agreement may receive the assistance from advisors during deliberations (Article 88.3 WS), who are bound by a duty of confidentiality regarding the information handled in the course of their duties (Article 65.2 WS).

To effectively address this issue and equip employee representatives with the necessary tools to carry out their role in promoting environmental sustainability within the company, it is essential to provide appropriate technical advice. This technical support not only strengthens their ability

³¹ The Supreme Court Judgments of 25 May 2006 (case no. 21/2005), (Legal Ground 11), and of 8 November 2010 (case no. 144/2009), (Legal Ground 5), have emphasised that the use of time-off credit allocated to workers' representatives may be used for training, provided that such training pursues collective objectives and benefits the workforce as a whole.

to understand the complexity of environmental challenges, but also enables them to put forward well-founded, solid proposals and opinions aligned with the organisation's strategic objectives.

In this regard, in addition to providing specific and ongoing training in sustainability, there is a need to complement these efforts with the possibility of securing support from experts specialised in environmental issues. These specialists could offer a deeper and more up-to-date perspective on the regulatory framework and best practices, enabling workers' representatives to effectively fulfil their responsibilities and act as agents of change within the organisation, promoting a corporate culture committed to sustainable development (Martín-Pozuelo, 2023:34).

7. The necessary existence of specific representative roles for defending workers' interests in environmental matters

Improved workers' participation in environmental matters requires the institutionalisation and legal recognition of specific representative roles in environmental affairs, designated through appropriate mechanisms and provided with sufficient guarantees to effectively carry out their responsibilities as actors in collective labour relations (Gutiérrez, 2010:125; Monereo, 2009: 481-537).

Specifically, this refers to the necessary legal recognition of the environmental delegate, inspired by the health and safety delegate, as a specific representative with the exclusive responsibilities in environmental matters; and the mandatory establishment – within companies of a certain size – of an environmental committee, similar to the health and safety committee. This committee would serve as a joint consultative and oversight body for the periodic evaluation of the environmental impact of business activities and the proposal of corrective or improvement measures.

7.1. The environmental representative

Legislative intervention to create the role of the «environmental representative» within companies could represent a significant step towards integrating environmental sustainability into the workplace. This role would assume specific competencies in environmental information and consultation, contributing not only to the protection of the company's internal and external environment but also to the improvement of working conditions and long-term sustainability (Canalda, 2021: 16-18).

So far, its incorporation has occurred only through collective bargaining, appearing in collective agreements within hazardous, polluting, or environmentally impactful economic sectors (Gutiérrez, 2010:125). Furthermore, the regulation of this role through collective agreements shows significant differences – not only in terms of the scope of its functions and responsibilities but also in the method of election or appointment. More recently, the role has been included, among others, in the Chemical Industry Agreement, which states that «each trade union organization recognized as most representative at the national level may appoint an

Environmental Delegate at workplaces where it has representation in the workers' representative bodies, choosing from among the Health and Safety Delegates» (Article 72)³².

To overcome the difficulties arising from the disparity of treatment in collective bargaining, it has been proposed that the role be defined within a unified legal framework (Martín-Pozuelo, 2023:35). Proposals for the legal regulation of this figure emphasize the importance of having this representative appointed by and from among the workers' representatives, while avoiding the overlap of the roles of health and safety delegate and environmental delegate in the same person. This aims to prevent an excessive workload that could compromise the proper performance of both roles, given the importance and specific nature of each (Rivas, 1999:12).

As for their responsibilities, these representatives are tasked with ensuring compliance with environmental regulations and promoting sustainable practices within the company. Their role goes beyond mere oversight and includes active collaboration with company management to improve environmental performance, encouraging workers' cooperation in complying with environmental regulations, and monitoring the implementation of environmental policies and objectives (Gutiérrez, 2010: 134-137). Among the main responsibilities attributed to these representatives by collective agreements are: the right to receive information on the introduction of technologies that may pose environmental risks, as well as on the development of environmental management systems; the ability to propose measures to reduce environmental risks and improve the company's environmental management; and the possibility of accompanying technicians during internal and external audits, including those conducted by the Labour Inspectorate and Environmental Inspection authorities (Laabbas-El-Guennouni, 2023:155).

The legal delineation of the responsibilities granted to these representatives could be established by analogy with those attributed to the prevention delegate in Article 36 of the Law on the Prevention of Occupational Risks (LPRL), and should include at least the following (Martín-Pozuelo, 2023:35; Gutiérrez, 2010: 134-137): a) collaboration with company management in improving environmental performance, while avoiding corporate *greenwashing* strategies; b) participation in the design and development of environmental training activities aimed at the workforce; c) informing and raising awareness among workers about environmental issues, promoting cooperation in the implementation and compliance with environmental regulations, as well as in the company's environmental policies, actions, and objectives; d) monitoring and overseeing compliance with environmental regulations and the company's environmental policies and objectives, contributing to their optimisation; e) proposal of measures: exercising the right to take initiative in recommending actions that reduce environmental risks, minimise the impact of business activities, and improve environmental management; and f) monitoring the use of resources: tracking and proposing improvements in the use of raw materials, natural resources, and energy, promoting more efficient and sustainable practises.

The inclusion of these responsibilities would not only encourage greater involvement of workers in sustainability efforts, but would also provide companies with an effective mechanism to address environmental challenges from a collaborative and strategic perspective. The proactive capacity of environmental delegates, combined with their roles in oversight and training, would significantly strengthen the environmental culture within the business environment, facilitating

³² 20th General Collective Agreement for the Chemical Industry (BOE No. 17, 19 July 2021).

compliance with current regulations and the achievement of more ambitious environmental objectives (Martín-Pozuelo, 2023:36). Moreover, it must be remembered that, in their capacity as representatives of the workforce, environmental delegates would be protected by the guarantees inherent to this role and would be bound by professional confidentiality regarding any information accessed in the course of their duties (Article 65.2 WS).

The workload and technical nature of the responsibilities assigned to these representatives demand significant involvement and dedication, which can be challenging without the necessary support and resources. Therefore, the creation of this role will require companies to ensure both the availability of resources and the provision of specialised environmental training – both of which are essential for the proper performance of their duties (Gutiérrez, 2010:135). In line with Article 37.2 of the LPRL, training must be provided by the company, either through internal resources or in collaboration with expert organisations in the field. Furthermore, its content should be continuously updated to reflect developments in the environmental field, ensuring periodic renewal based on the evolving needs resulting from regulatory, technological, or social changes (Laabbas-El-Guennouni, 2023). It is also essential that the time spent on these training activities be regarded as actual working time³³.

With regard to the time-off allowance granted for the performance of representative duties, given the complexity and technical nature of the functions associated with the environmental field, it is considered appropriate to establish an additional and specific time-off allowance for these delegates. This allowance would be cumulative to the general entitlement recognised for representation duties and reserved exclusively for the performance of activities related to environmental responsibilities.

7.2. The Environmental Committee

The ILO has emphasised the advisability of organizations establishing environmental committees at the company or sectoral level in order to «engage in dialogue on the environmental dimensions of recovery, as well as related economic and social aspects, such as occupational safety and health, wages, working hours, productivity, business resilience, and skills» (ILO, 2020). Similarly, the Citizens' Assembly on Climate Change included among its recommendations the establishment of joint parity commissions of workers and employers to address matters related to climate change and the environment within the company (recommendation 132 under objective 47).

In line with these provisions, the creation of an «environmental committee» - as a joint and collegiate body inspired by the model of the Health and Safety Committee outlined in Article 38 of the LPRL – has been considered necessary to promote dialogue between the company and environmental delegates in companies or workplaces with fifty or more employees, or, alternatively, in those whose activity entails particular environmental sensitivity. The legal establishment of these bodies represents a crucial step forward in the field of corporate sustainability, legitimizing the participation of workers' representatives in environmental governance and ensuring that the decisions made reflect a balance between business, labour, and environmental interests.

³³ Recognising environmental delegates' meeting time as effective working time, Art. 25(a) of the Ercros Agreement (BOE No. 126, 31 October 2022).

In the field of company-level collective agreements, significant progress has been made in the creation of this type of collegiate bodies dedicated to the oversight of matters related to safety, health, and the environment (Laabbas-El-Guennouni, 2023:153). These bodies, commonly referred to as «Committees or Commissions on Safety, Health, and the Environment», are intended to ensure compliance with environmental regulations, receive detailed and up-to-date information on the company's environmental situation, and actively participate in various aspects of environmental management and risk prevention.

Among their responsibilities, a key role is the right to be informed and to intervene – at the request of either party – in investigations of serious and very serious environmental accidents that occur within the workplace. Additionally, these bodies take part in the planning and evaluation of environmental training programs, offering alternative or complementary proposals for their improvement. In some cases, they also have the authority to issue reports on environmental aspects of the company, serving an important consultative role. Likewise, these committees often play an active role in the development, implementation, and oversight of environmental action plans, as well as in the continuous evaluation of the measures adopted.

For all these reasons, in its legal framework, the environmental committee could be assigned the following responsibilities: a) the development, implementation, and evaluation of the company's environmental plans and programs; and b) the proposal of measures to reduce the company's environmental impact or to correct existing deficiencies.

In addition to these duties, and in line with the provisions of Directive (EU) 2022/2464 on Corporate Sustainability Reporting (CSRD)³⁴, it is proposed that this body also serve as a forum for discussion and negotiation of a mandatory Environmental Strategy. This strategy would define the organisation's environmental priorities and objectives, and should include measurable targets, an implementation timeline, allocation of specific resources and means, a monitoring and control system, and a clear definition of roles and responsibilities for the various stakeholders involved – including company management, employee representatives, and the workforce as a whole. Its design and implementation would contribute to aligning business objectives with global commitments in the fight against climate change and the pursuit of sustainability.

Ultimately, this collaborative approach not only strengthens companies' ability to manage environmental risks in a comprehensive manner, but also promotes a culture of shared responsibility in the protection of the natural environment (Laabbas-El-Guennouni, 2023:154).

8. Final considerations

The promotion of worker participation in environmental matters requires the implementation of measures aimed at institutionalising specific channels of representation and strengthening the specific rights to information and consultation. The goal is to provide workers' representatives with effective tools to influence business decisions related to sustainability. Such measures will help to establish a regulatory framework that enables workers' representatives to play a more active and effective role in shaping and overseeing corporate strategies aimed at a just transition, thereby reinforcing their influence in a field of crucial importance for the future of work and

³⁴ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No. 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU as regards corporate sustainability reporting. Official Journal of the EU No. 322, 16 December.

environmental sustainability (Chacartegui, 2021:106). In this regard, there is support for the creation of an integrated management system for prevention and safety within companies through the adoption of a General and Integrated Comprehensive Law on Risk Prevention and Environmental Quality. This law would set out the principles, institutions, and coordination measures necessary for the protection of both the working environment and the natural environment (Monereo, 2009: 481-537).

Equipping workers' representatives with specific rights to access information and intervention in environmental matters will have a positive impact on collective bargaining, raise awareness among the workplace, and facilitate the adoption of agreements that promote sustainability. However, the effectiveness of these measures will depend on the level of cooperation from the company, particularly in providing information on issues that may directly or indirectly affect labour relations. These include the specific impacts of climate change on business operations or the productive sector, as well as the strategies adopted to mitigate its effects (Gárate, 2020: 156).

Undoubtedly, the proposed changes must promote the binding participation of workers' representatives and lead to improved performance of their assigned duties in monitoring and overseeing compliance with labour, social security, and employment legislation. In particular, they should enhance the monitoring of compliance with environmental regulations, including the company's environmental commitments, policies, and objectives. This oversight function includes the power to report environmental violations that may arise from business activities. In this regard, and in line with the provisions of Law 2/2023 of February 20, regulating the protection of individuals who report regulatory violations and combat corruption³⁵, the capacity of workers and their representatives to act as «environmental citizens within the company» (Escribano, 2021: 119-148) or as *whistleblowers* of potential environmental harm caused by productive activity – not only harming the workforce but also society as a whole – is reinforced (Álvarez, 2016: 119).

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