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Employees’ rights to influence the work environment and some challenges

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1

1 Introduction

1.1 Background

A work-related injury or accident is a catastrophe and an economic loss for the individual and a cost for the employer and for society as a whole. The cost for poor work environment in Sweden has been estimated to 164 billion crowns a year. It has been estimated that more than 1000 employees in Sweden lose their lives each year because of work-related accidents and injuries. In Sweden there is a long tradition that employers and the employees co-operate in order to prevent work accidents and injuries. Sweden became an industrial society in the middle and end of the 19th century. It was during that time trade unions developed to strive for better working conditions. The confederations of Swedish Trade Unions (LO) was formed in 1898 and The Swedish Employers Confederation (SAF) was formed 1902. In 1906 the first nationwide compromise (Decemberkompromissen) was settled between SAF and LO, including statements of respect from both sides. Today around 70% of the employed belong to a trade union 2018.

1 Associate professor in work environment law at the University of Örebro, Sweden.
2 Tidningen Arbetarskydd, 17-10-27. The figures are based on information from Internationella arbetsmiljökommissionen, ICOH, Internationella arbetsorganisationen ILO, Europeiska arbetsmiljöbyrån.
3 Duodecim mars 2017. Part of the information comes from an interview of professor Bengt Järnholm. His figures are based on two studies made by him and two of his colleagues at Yrkes- och miljömedin in Umeå.
4 LO, Facklig anslutning 2018, LO Arbetsmarknadsrapport.
This article is to honor professor Örjan Edström. He was my very well prepared and knowledgeable opponent, when I defended my dissertation in 2004 on the subject of Safety delegates- in the interest of everyone.5 Professor Edström has devoted much of his research in the area of co-operation between the parties, here meaning the employers and their confederations on one hand and the trade union on the other hand. The title of professor Edström's dissertation was: The Co-determination Act and the Efficiency and Participation Agreement. Co-operative Negotiation in Companies (1994).6 This work was primarily concerned with the national collective agreement (Utväcklingsavtalet) from 1982 between the employers in the private sector and trade unions. The agreement gave the trade unions the right to negotiations and co-operation before the company made decisions concerning major company and labour management issues. Professor Edström has written an article with his doctoral student Johan Holm, Work Environment Regulations, Co-Determination and Collective agreement- Co-operation in the greyzones between public law and collective agreements (2017).7 He has published an article named Co-operation in Labour law (2019). In this article he gives three examples of co-operation in labour law. One originates from the Co-Determination Act, one from the Work Environment Act and one from the Discrimination Act. He discusses some of its dilemmas.8

Research in the area of work environment legislation, co-operation and participation has been carried out by Håkan Hydén in The Nordic Model (1990), by Ronny Eklund in Splitting old companies- a trend or a necessity? (1992) and by Peter Andersson in Take all precautions necessary (2013) and by Nicklas Selberg in The concept of Employer and Labour Law in Complex Work Organisations (2017).9

The idea of this article is to deepen the knowledge of participation and co-operation in the field of work environment.

1.2 Purpose, method and disposition

The purpose of the article is to study different kinds of employees’ rights to influence the work environment and discuss some of its challenges. This will be done through the study of the work environment regulations and decisions from a study of the Work Environment Authority 2016-2017. A few examples will be given from collective agreements.

Some definitions will first be made of what can be regarded as employees’ rights to influence the work environment. Then there will be an historical overview of the development of the employees’ legal possibilities to influence the work environment direct or indirect, through safety delegates or through the trade union. Some examples will then be given of decisions (injunctions) by the Work Environment Authority. Finally, I will make a summary of the employees’ right to influence whether it is direct or indirect and point some legal possibilities, if their right to influence is not neglected. Lastly, there will be a discussion of strength and challenges of the present system.

1.3 The right to influence, what does it mean?

The employees’ right to influence is regulated in the Swedish Work Environment Act (1977:1160) (WEA), which is the prime regulation for preventing work accidents and injuries. The Act is complemented with a Work Environment Ordinance (1977:1166) (WEO) and several Provisions from the Work Environment Authority (WEAuthority). The WEA gives the employer the main responsibility for the work environment (Ch.3, Sec.2 WEA). The right to influence in this article means both the employees right to influence directly by participation or indirectly by participation or co-operation by safety delegates or the trade union. Participation (delta i) can mean both an employee’s right to participate (Ch.2, Sec.1 WEA) or can mean an obligation to participate (medverka) (Ch.3, Sec.4 WEA). It can also mean the right to participate (delta i) by a safety delegate (Ch.6, Sec.4 WEA). Co-operation means here both co-operation between employers and with the safety delegates or with the trade union in a safety committee (Ch.6, Sec.1 and 9 WEA).

In order to understand the meaning of co-operation and participation, there is a need to know the development of these terms starting in 1889 until today.
2 The development of participation and co-operation

2.1 Participation and co-operation 1889-1970

From 1989 to 1970 one can say that the development of participation from the individual employee, was first an obligation and became later a right for the safety delegates and then there was co-operation with the trade union based on collective agreements focused on health and safety issues. In 1889 the first national preventive Health and Safety Act, (Yrkefarelagen) was passed by Parliament. The employer was given the main responsibility for health and safety. Employees were obligated to participate (medverka), meaning to follow the safety rules. A Labour Inspection was formed at the same time.

In 1912 there was a new Health and Safety Act (Lag om arbetarskydd). Employees who took away a safety device without a permit, could be forced to pay a fine from 5-200 Sw. Crowns. At the same time the employees were given a right to appoint an ombudsman who should represent them, when the health and safety inspectors visited their factory.

In 1929 the International labour organization (ILO) issued the Recommendation nr 31 on prevention of accidents at work. It was agreed that health and safety issues at work were a common interest for the employers, the employees and for the government (staten). The result of this recommendation was that the Swedish employers in 1931 became obligated to co-operate (samråda) with the now called safety delegate. If the co-operation failed, the safety delegate was given a right to turn to the Labour Inspectorate for help. This can be seen as some kind of co-operation between the state and the employees.

In the 1930's and before the second world war, there were a lot of strikes in Sweden. A need to co-operate between the parties developed. In 1938 there was a national agreement (Saltsjöbadsavtalet) in Sweden between SAF and LO. Instead of strikes, there should be negotiations on different levels. The same year, the Parliament decided that co-operation in safety matters could take place in factories with over 50 employees and be called safety committees. The idea came from the USA and from the Safety Movement meaning that the employer must listen to the employees when it came to health and safety. In an investigation prior to the

decision of Parliament about safety committees, it was mentioned that co-operation
between the employer and the employees had been very successful.\textsuperscript{12}

In 1942 SAF and LO agreed on the first national collective agreement on health
and safety. This was one of the first collective agreements after the
Saltsjöbadsavtalet. A reason behind the agreement was that SAF did not want further
regulations from the Parliament and hoped that the agreement would make the
legislator less interested in regulating safety issues. The agreement gave suggestions
for co-operation between the employer, trade union and the safety delegates.\textsuperscript{13}

In 1949 the Parliament issued a new Health and Safety Act (Arbetarskyddslagen).
A chapter was called Co-Operation. This meant primarily co-operation between the
employer and the safety delegates. At the same time, regional safety delegates could
be appointed. They should co-operate with small businesses who did not have a
safety committee. They were appointed by a department (avdelning) of a trade
unionen and with the consent of the Labour Inspectorate

\textbf{2.2 Co-operation expands in 1973-1990}

In 1973 the safety delegates were given the power to stop work, if there was an
immediate danger and co-operation failed. At the same time, the trade union was
given a right to appoint members to the safety committee, if the trade union had a
collective agreement with the employer. There was a wish that the trade union
should participate with a representative. The idea was to give the committee better
stability.\textsuperscript{14}

In 1976, the Co-Determination Act was passed. This gave the trade union a right
to negotiate before the employer made important decisions, for example, about new
buildings and work organization. In 1977 the present Work Environment Act was
enacted. The Act determined that the employer now was responsible for preventing
mental risks. In the new Act, it was suggested that the work should be organized in
a way so the individual employee could influence his/her work situation (Ch.2,
Sec.1 WEA). The individual employee was given a right to stop his or her work, if
there was an immediate danger and they did not have to pay compensation for the
damage this could lead to (Ch.3, Sec.4 WEA). The safety delegates were given a right
to participate in the planning, for example of new buildings and were given rights to
different kinds of information (Ch.6, Sec.4 and 6 WEA).\textsuperscript{15} Here one can see how

\textsuperscript{12} SOU 1937:52, Betänkande avgivet av 1937 års arbetarskyddskommitté.
\textsuperscript{13} Den lokala säkerhetsstjänsten, SAF-LO 1942.
\textsuperscript{14} SOU 1972:86, Bättre arbetsmiljö, p. 248.
\textsuperscript{15} Prop. 1976/77:149 med förslag om arbetsmiljölag m.m.
the Co-determination Act and the Work Environment Act will handle the same issues, but from two different angles.

Collective agreements concerning health and safety expanded. From 1942 to 1990 the private sector had national collective agreements concerning the work environment. In 1976 to 1990 there was a national work environment collective agreement between SAF, LO and PTK (PTK representing several white collar unionens). The agreement covered questions like co-operation in safety committees and the situation of safety delegates. Employees in public hospitals got their first work environment agreements in 1968. The rest of the public sector was covered by collective agreements during the seventies.\(^{16}\)

At the end of the 1970’s and in the beginning of the 1980’s agreements were signed dealing with the trade unions right to negotiate and acquire information in work related matters based on the new Co-Determination Act. The government (staten) and the trade unions closed several collective agreements on work environment (1974, 1975, 1978). In 1978 the government and the trade union closed a co-determination agreement.\(^{17}\) This included issues concerning co-operation and participation based on matters related to the work environment and on the WEA. Ten years later these parties signed a new collective work environment for the work environment, AMLA 89.\(^{18}\)

In 1981 a work environment agreement called Miljö 81 was signed covering employees in local and regional communities (kommuner och landsting). Parallel to this agreement, there was a collective agreement called MBA-KL 80 covering the same parties, but based on the new Co-Determination Act. In 1982 a national collective agreement was signed between most of the parties in the private sector named The Efficiency and Participation Agreement (Utvecklingsavtalet).

These work environment agreements were to support co-operation between the employers, trade union and safety delegates. In the end of the 1980’s it is estimated that 80-85 % of the Swedish work force was covered by national collective agreement concerning the work environment.\(^{19}\) The development during the 1980’s was that there were to parallel collective agreement based on two different kinds of legislation, but both were about co-operation and participation of the employees, whether it was with safety delegates or trade union representatives or both.

\(^{16}\) Steinberg (2004).

\(^{17}\) Förordning (1978:829) om vissa medbestämmandeformer i statligt reglerade lärartjänster m.fl..


\(^{19}\) This estimate is based on the fact that most of the public sector were covered by these work environment agreements and that SAF-LO and PTK work environment agreement covered a large proportion of the private sector.
2.3 Individual participation expands and turbulence in the collective agreements 1991-2019

In the 1990’s the employees right to participate in the work environment was strengthened according to a revision of the WEA. At the same time, most of the national work environment collective agreements were terminated.

In 1991 there was an important revision of the WEA. The employee was given the right to participate in matters that concerned the work environment for the individual employee (Ch.2, Sec.1 WEA). The employer was obligated to have systematic work environment management (SWEM). In a special Provision called Internal control (Internkontroll, AFS 1992:6) it was required to let the employees participate in the work of SWEM. How the employers organized their work become now a work environment issue, which was regulated in the WEA. The safety delegates were given a special right to participate in the planning of a new or changed work organization and when the employer made their action plans for the work environment. The safety delegates were also given the authority to control that the employer carried out the systematic work environment requirements.

In the local and regional public sector, the two collective agreements, Miljö 81 and MBA-KL 80, merged into one collective agreement on co-operation (Utveckling 92). The employees were given a right to participate in work place meetings (arbetsplatsträffar) and was given an opportunity to have annual talks with their employer (medarbetarsamtal). Safety committees, according to the WEA and negotiation and information according to the Co- Determination Act was going to take place in so called co-operations groups (samverkansgrupper). These groups were to replace the employers’ obligation to negotiate certain important issues such as work organization, new buildings and to give ongoing information and in some instances not allowing companies from the outside to come and work (the right to veto) to Sec.11, 19 and 38 Co-determination Act. At the same time these groups could become safety committees. The groups consisted of representatives from the employer, the trade unions and safety delegates. If the parties did not agree, there could be a negotiation or the question could be taken to the Labour inspectorate. This collective agreement has been replaced both in 2005 (Improvement, Work Environment and Co-operation)\(^2\) and in 2017. Most of the base is the same.


\(^2\) FAS05, Förnyelse-Arbetsmiljö-Samverkan (2005)
that the employer shall consult the workers and/or their representatives and allow
them to take part in discussions on all questions relating to safety and health at work.
The directive included that workers or workers’ representatives with specific
responsibility for the safety and health of workers shall take part in a balanced way,
in accordance with national laws and/or practice.

In 1997 the government and the trade unions for the employees agreed on a
collective agreement on Co-operation for development (Samverkan för utveckling 97).
This agreement has been replaced in 2016.21 The agreement does not deal with the
work environment in any details. It is up to the local parties to decide how they want
to organize this.

The private sector ended up not agreeing on a national agreement, but rather
relying on different kinds of work sector agreements where work environment issues
were mentioned. Otherwise the question was left to the WEA. In 2012 the largest
union for the white color employees called Unionen published a work material for
their members called: Negotiate for better work environment. The idea was to suggest that
the parties also could negotiate in matters of health and safety.

In 2015, a new Provision was issued named The Organizational and Social Work
Environment (AFS 2015:4). The Provision made it clear that work-loads, working
hours and harassment were part of the work environment. The demands in the
Provision and how to solve them should be seen as part of the systematic work
environment management. This gave the employees and the safety delegates a
clearer right to participate in these kind of matters.

But who is an employee today? The Swedish WEA protects mainly employees,
and hired persons (inhyrda) and to some extent persons employed in one company,
but carrying out the work in another company (entreprendantställda).

The development in Sweden and in many other countries is that the question
who is an employee and who should be protected under the WEA and to what
extent has become more and more unclear. Some of these situations can be called
crowd-work or is part of the gig economy. The problem has been discussed in a
governmental investigation called A changing working life - how does this affect the
responsibility for the work environment? 22 The investigation takes up limited
employments, hired employees, self-employments and digital employments. The
unclearness effects the employees’ right to participate, as well as the right for the safety
delegates and the trade union to co-operate.

21 Överenskommelse om Ramavtal om samverkan för framtiden med Tillhörande bestämmelser, 2016-04-29.
22 SOU 2017:24. Ett arbetsliv i förändring hur påverkas ansvaret för arbetsmiljön?
The idea of this part of the article was to give the reader an idea of the development of the different kind of co-operation and participation when it comes to the work environment.

3 The employees’ right to influence and when it fails

This section will present the rights of the employees and their representatives to influence the employer today and explain the consequences when the employer will not listen to the employees or to their representatives.

3.1 The individual employee’s rights and obligations to participate

The individual employee’s right can be found in the WEA, which states:

Employees must be given the opportunity to participate in the design of their own work situation and in processes of change and development affecting their own work. (Ch.2, Sec.1 WEA).

In this section participation shall be seen as a right for the employees to participate in areas that concerns the individual. The idea is that the right to participate will promote the well-being of the employee and lessen the risk of work-related accidents or illnesses. The employee is regarded as the best expert of his/hers needs. If the employee is not given an opportunity to participate, he/she can turn to the safety delegate, who after turning to the employer can turn to the WE Authority (Labour Inspectorate before 2000). (Ch.6, Sec.6a WEA). The problem can also be dealt with in a safety committee.

A more general opportunity to co-operate can be found in the WEA.

Employers and employees must co-operate to create a good work environment (Ch.3, Sec. 1a WEA).

This is a very general statement meaning that both the employers and the employees have a responsibility to co-operate. The employer has the main responsibility, but the employee is also responsible. The employee’s responsibility is to participate (medverka).

The employee must participate in work relating to the work environment and take part in the implementation needed to create a good work environment. The employer

23 Prop. 1990/91:140 Arbetsmiljö och rehabilitering, p. 31-38.
must comply with directions issued, use the safety equipment and exercise the caution otherwise needed to prevent illness and accident. (Ch. 3, Sec. 4 WEA.)

This means that the individual employee is obligated to follow the direction of the employer, when it comes to health and safety rules. If an employee refuses to follow an order from the employer, it can, in the end, lead to the termination of the employment according to the Employment Protection Act.

As mentioned, before every employer in Sweden is obligated to carry out systematic work environment management according to Ch.3, Sec. 2a WEA. This Section is complemented with a Provision with the same name (AFS 2001:1).

The employer shall give the employees… the possibility to participation (medverka) in the systematic work environment management. (Sec.4 Systematic Work Environment Management, AFS 2001:1).

This can be seen as an opportunity or right for the employee, but it can also be seen as an obligation. If an employee for example takes away a safety device, he or she might have to pay a fine (Ch. 8, Sec. 2 WEA).

The WEA includes a chapter called Co-operation between employers and employees (Ch.6 WEA). This means primarily co-operation with the employer on one hand and with safety delegates and members of the safety committee which includes representatives from the trade union on the other hand.

3.2 The safety delegate and the safety committee

The safety delegates shall be elected by the trade union, if there is a collective agreement with the employer. Otherwise, the employees shall choose them. Small companies without a safety committee can be represented by a regional safety delegate, appointed by a department of a local trade union, if that union has a member at the work place. Work places with less than five employees has no right to choose safety delegates unless there is a special risk in the work place. The employer is obligated to co-operate with the safety delegate in many ways like in planning, take part in the preparation of actions plans as part of SWEM (Ch.6, Sec.4). The safety delegate shall co-operate with the employer, if measures need to be taken in order to improve the work environment (Ch.6, Sec 6a WEA) and before stopping a dangerous work (Ch 6, Sec.7 WEA). The safety delegate has a right to participate according to a dozen provisions. If the employer does not act according to the requests of the safety delegate, the delegate has a right to turn to the WE Authority.

24 Steinberg, Maria, Skyddsombudsrätt (2018), Norstedts Juridik.
and demand a decision. The Authority can issue an injunction or make a prohibition demanding improvements. The employer can be obligated to pay a conditional fine (vite), if the demands from the WE Authority is not followed. If the Authority does not support the safety delegate, a head safety delegate can appeal to an administrative court. The delegate could also turn to the safety committee. If the trade union finds that the safety delegate has been harassed, the union can ask for compensation (Ch.6, Sec.10-11 WEA). A case like this can end up in the Labour Court. Both the trade union and the safety delegate can receive compensation (Labour Court 1977 nr 70).

The purpose of the committee, in which a safety delegate must be a member, is that its members should participate in the planning of the future work environment. The committee shall co-operate in matters of occupational health service, action plans, other kinds of planning related to the work environment and information and education concerning the work environment and job adaptation and rehabilitation (Ch.6, Sec.9 WEA). If the safety committee cannot agree on a work environment issue. The committee can turn to the WE Authority and ask for a decision (Sec.9 WEO).

4 The implementation of the right to participate by the employees and safety delegates

A study has been made of 98 injunctions from the Work Environment Authority during March 2016 to May 2017 All the injunctions were concerned with the problems relating to the organizational and social risks based on the Provision with the same name. More than half of the them (64 out of 98) were initiated by the safety delegates. The WEA Authority demanded in almost half of the cases (44 of 98) that employees and safety delegates must be invited to participate (Sec.4 SWEM). The WEAuthority demanded this kind of participation when the employer discussed overtime, how to prioritize, how to take care of harassments (kränkningar), how to be specific with the kind of work the employees were supposed to do, in different kind of risk inventories, risk assessment and when there should be improvement of action plans. Half of the cases came from of the public sector and half of those, came from the caring sector including hospitals. Here one can see that the WE Authority finds participation from the employees and safety delegates to be very important.

5 The Co-determination Act

The Swedish Co-determination Act from 1976 has its background in previous laws about The Act of Collective agreement and the Labour Court from 1928, the Right
to organize and negotiate from 1936. The Co-Determination Act included these previous laws and added rules about co-determination.

The employer is obligated to invite the trade union to negotiations before the employer makes decision prior to any decisions by an employer regarding significant changes in working or employment conditions for employees who belong to the organization (Sec. 11 CDA).

The trade union has a right to information and veto in certain areas. The co-determination act is part of a more democratic work life. The act originates from the idea that there is a conflict between the employer and the employees, and there is a need for tools to negotiate instead of strikes. The Co-Determination Act gave the parties a possibility to sign collective agreements on different kinds of co-operation. If the parties did not agree, there could be different kind of solutions from negotiations, to take the problem to an arbitration board or to the Labour Court if there was a disagreement on a legal issue.

6 Co-operation and participation

6.1 Co-operation and participation

There has been a strong development of expanding the rights for the employees, the safety delegates and the trade union, when it comes to influencing the work environment from 1889 to 2019. The employees are obligated to co-operate and to participate but at the same time today this is a legal right for them. When it comes to co-operation between employers and the trade union, there can be collective agreements where it states that co-operation shall take place both with the trade union and with the safety delegates in matters of work environment. There are many legal possibilities for the safety delegates to act, when co-operation and participation fail. They can stop a work or turn to the WEAuthority and request a decision. If the Authority does not agree with the safety delegate, a head safety delegate can appeal the negative decision to an administrative court. This is without a cost for the safety delegate. The individual employee can turn to the safety delegate, if not given the opportunity to participate. Every employee is also allowed to take contact with the WEAuthority to point our risks, but the Authority is not obligated to investigate such cases.
6.2 What are the challenges?

6.2.1 Working in small companies with unclear contracts

The Swedish WEA is based on the idea that most of the employees are working in companies with over 50 employees, with strong unions, with collective agreements and with long lasting employments. Today the situation is somewhat different. Around 800 000 persons are registered as self-employed. Some of them can be very dependent on a certain employer. Their right to influence the work environment can be very limited. Approximately 830 000 persons were under fixed term employment in 2018. It can be hard for them to use their rights to influence, because they are only at the work place for a short time and their job security is weak. The result can be that they can be hesitant to complain. Their relation to the safety delegate, can be limited, because of their contract as a temporary worker. Maybe over 100 000 employees were working in companies with less than 5 employees. These have no right to have a safety delegate of their own in most cases. On the other hand, they could be represented by a regional safety representative.

6.2.2 Employees right to participate, what does it mean?

The employees’ right to participation has been challenged by the WE Authority in the study earlier referred to, but what does it mean? Here is an example of such a dilemma.

Employees working in front of computers most of the day, have been invited to a work meeting (arbetsplatsträff) in order to discuss what kind of new chairs the company should buy. The whole group have voted for special designed red chairs. The employer is willing to buy them, but there is a problem. The safety delegate says no. The chairs are not good ergonomically. If the employer buys them, the safety delegate claims that the number of sick-leaves will raise. The physiotherapist at the occupational health clinic supports the statement of the safety delegates.

What shall the employer do? The employer is responsible for the work environment and does not want anyone to get sick, because that cost a lot of money and gives

26 Statistiska nyheter från SCB, 180918.
27 Ekonomifakta, *Antal anställda mellan 1-9 under 2018.* This is an estimate based on the figures that 270 000 employees were working in companies with 1-9 employees.
bad reputation. One can say that the employer has fulfilled the obligation to the employees, while letting them participate in the discussion on buying new chairs. The WE Authority would most likely agree to this.

6.2.3 Can there be conflicts between safety delegates and the trade union?

The safety delegates and the trade union have many overlapping issues that can cause conflicts. Some of the most important tasks for the trade union is to negotiate salaries and solve conflicts connected with working conditions. This is done most of time through negotiations. In order to be a strong union there is a need for members. But conflicts can arise with the safety delegate.

Here is an example.

The employees in a building company want to work 12 hours a day. They live far away from their families and want to work hard for a few days and then go home. The employer and the trade union have agreed to these working hours, but the safety delegate disagree, because such long working hours increase the risk for work accidents. The members threaten to leave the trade union, if the union does not accept the 12 hours.

This is a difficult situation. The trade union wants to satisfy its members. At the same time, too much overtime can lead to accidents. The safety delegate can turn to the WE Authority and ask for a decision. The new provision OSA can give the safety delegate support. The conflict between the employees, the trade union and the safety delegate remains.

Another challenge today is that sometimes safety delegates will also be a trade union representative that has the power to negotiate working hours with the employer. This can be confusing both for the safety delegate and for the employer.

The main task for the safety delegate is to prevent employees from illnesses and accidents both of which can lead to death because of the work environment. The main tasks for the trade union is to see that its members have work and a good salary. When it comes to overtime, the trade union and the safety delegates envounter somewhat different kind of challenges. It can therefore be difficult to be a safety delegate and a trade union representative at the same time.
Co-operation and participation in the field of work environment, strength and challenges

Professor Edströms points out that there are two parallel systems, one system based on the work environment act and the safety representatives and one based on collective agreement and the co-determination act, one based on public law and the other one on civil law. The WEAct is public law and the Co-Determination act is civil law.

In the collective agreement for the local and region municipalities these two laws merged. There has been a discussion that chapter 6 WEA on Co-operation in the WEAct should be taken out and that the trade union should be given all the rights in a civil act. This has not been done, partly because this chapter include non-unionized employees and those without a collective agreement.

A strength in the present legislation is that most problems in the work environment can be handle by the support of the WEAuthority, which is free of charge for the safety delegates and for the members of the safety committee. On the other hand one have to remember that there are many more safety delegates including the important regional safety delegates and trade union officials than there are inspectors from the WEAuthority. One must also recognize that the safety delegates today can represent hired employees and employees from other companies (entreprenörer), when they are working in same workplace as the safety delegate.

Maybe the regional safety delegates are more important than ever considering how many employees are working in small companies without a safety delegate of their own, without a safety committee and without a collective agreement.

On one hand the possibilities for the employees to influence the work environment has expanded legally and thanks to a few collective agreements in the public sector. This can be seen as a promotion but also as a challenge. A well-educated safety delegate is more likely to be an asset both to the employees, the employer and to society as a whole in comparison with employees without any education about risks at the work place. It is probably only safety delegates with strong unions behind them who dare to challenge their employers.

The challenge for the future is however how to incorporate working persons with different kind of legal employment status and to strengthen their possibilities to participate and be part of the co-operation between employers and employees. This includes being represented by the safety delegates. I see this as a national health challenge.