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# **“An attempt to revitalize social dialogue and national industrial relations systems in some of the CEECs” – lesson learnt and best practices in the way out of the crisis**

VS/2014/0588

## **Country Report Hungary - 2015**

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## EXECUTIVE SUMMARY

This study was prepared for the Democratic League of Independent Trade Unions (commonly referred to as LIGA Szakszervezetek or abbreviated as LIGA) as part of the EU financed project titled “An attempt to revitalize social dialogue and national industrial relations systems in some of the CEECs” (project number: VS/2014/0588).

The study places two main goals in its focus:

- it aims to uncover the direct and indirect effects that the great economic crisis of 2008 had on the Hungarian labour market environment, as well as on social dialogue and its participants in Hungary;
- it also seeks to find options and methods available in order to „revive” the classic system of industrial relations as a whole.

In order to present aforementioned effects and the reasons behind them, the study reviews the most important changes from 2010 regarding legal regulations and institutions related to the world of work – placing primary focus on the private sector – and as a practical approach it also contains a summary of the reactions and opinions of the most active social partners in present day Hungary on the issue.

Within the framework laid out above, special regard is to be given to industrial relations, more precisely collective bargaining on sectoral and national level, although local level shall also be mentioned as that is the dominant level for collective bargaining in Hungary. Please note that due to space limitations (specified by the project) the study cannot go into details in every question and in some cases only the facts deemed most important (by the authors) could be kept in the final version.

The study begins with a brief overview of historical events regarding the most important phases of national and sectoral interest reconciliation starting from the regime change up until 2011, the point where national level interest reconciliation (as known till that date) ceased to exist.

The next chapter presents the basic characteristics of industrial relations in Hungary and related aspects of the labour market environment.

The third chapter discusses the most important legal regulations as well as the relationship between social partners and the state.

Chapter four focuses on the economic crisis of 2008. Its effects, consequences, changes (in general) and domestic actions carried out in order to moderate them are all reviewed briefly.

The last chapter summarizes the main points of the interviews conducted with the leaders or other representatives of social partners (who were willing to participate).

## I. INTRODUCTION

### **Stages of national level interest reconciliation (1988-2011):**

In 1988 the first tripartite forum of national level social dialogue in Hungary, the National Interest Reconciliation Council (original Hungarian abbreviation: OÉT) was founded. Its formation was passed as a government decision. Social partners – the only trade union centre at that time and other organizations, mostly carrying out economic interest representation – were invited to join the OÉT by the state itself.<sup>1</sup> The most important achievement was that the OÉT successfully began to limit and later waive the centralised wage regulation system and as a result paved the way for free collective bargaining regarding wages and compensation.

Following the regime change in 1990, the OÉT has been transformed into the Interest Reconciliation Council (original Hungarian abbreviation: ÉT)<sup>2</sup>, in which there were already six member organizations on the employees' side<sup>3</sup> (as pluralism has spread among the trade unions) and nine on the employers' side<sup>4</sup> to carry out negotiation with the state – the political Secretary from the Ministry of Labour was also present during such negotiations. The ÉT was a national level economic and labour forum in the same time that carried out work according to its own constitution passed and accepted by itself.<sup>5</sup>

In the spring of 1999, the ÉT was replaced by the National Labour Council (original Hungarian abbreviation: OMT)

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<sup>1</sup> Detailed material on the subject can be found in Hungarian in: Herczog, László: The Rugged Road of Legally Regulating Interest Reconciliation (original title: Az érdekegyeztetés jogi szabályozásának göröngyös útja) 2008

<sup>2</sup> Please note that some legal regulations did not follow the official name change right away (e.g.: Section 9 of Act IV of 1991 on Job Assistance and Unemployment Benefits)

<sup>3</sup> Originally there were seven members on the employees' side. The seventh was the Solidarity Trade Union Confederation (Szolidaritás Szakszervezeti Szövetség), but their ÉT membership was withdrawn in 1993.

<sup>4</sup> Information on the members of the ÉT – with their official names then – can be found in Hungarian in: Ladó, Mária-Tóth, Ferenc: State of Play of Interest Reconciliation (original title: Helyzetkép az érdekegyeztetésről) 1996

<sup>5</sup> Herczog, László: The Rugged Road of Legally Regulating Interest Reconciliation 2008.

Since the OMT kept all members and rights, basically it was able to continue the work started by the ÉT.<sup>6</sup> Its members were representatives from the state, and national level member organizations or confederations from both the employees' and employers' side.

On the 26<sup>th</sup> of July 2002 a decision was made on the cessation of the OMT and reestablishment of the OÉT in the same time. Since the decision did not contain any regulations regarding the rights to participate or decision making mechanisms, the re-established OÉT was set up by the previous members of the OMT. It's most important body was the “Plenary Session”, but its work was supported by specialised permanent forums, specialised committees and subcommittees. According to the (temporary) constitution of the OÉT, the members had the right to: information, express position and opinion, and consent.

The OÉT was missing the legal basis for its activity as an actor of public power regarding its right to consent. The Constitutional Court has determined [in order, number 40/2005 (X. 19.)] that the OÉT shall indeed be considered an actor of public power but lacks the legal basis to justify such activity, therefore its activity shall not be considered legitimate which means that its activity is against the Constitution.<sup>7</sup> The Constitutional Court addressed the Parliament with the issue and asked them to modify the legal regulation regarding the question in order to justify the activity of the OÉT. The act was passed in 2006 but due to the (constitutionality) review asked by the President of the Republic, the new act on the OÉT was not promulgated. The act was later passed and promulgated in 2009.<sup>8</sup> The OÉT was later dismissed by the majority ( $\frac{2}{3}$ ) of the governing parties on the 30<sup>th</sup> of June 2011.

A separate forum for interest reconciliation was set up in the public sector in December 2002 named the National Public Service Interest Reconciliation Council

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<sup>6</sup> Consultation regarding economic policies, financial- and tax regulations and social security strategies were moved under the jurisdiction of the Economic Council, founded in April of 1999.

<sup>7</sup> Kisgyörgy, Sándor-Pásztóy, András: National Level Social Dialogue in Hungary and Options for its Expansion [in Hungarian (original title: Az országos szintű szociális dialógus Magyarországon és bővítésének lehetőségei)] 2014. p. 8

More information on the subject is available in Hungarian at: <http://munkaugylevelek.hu/2005/12/ab-hatarozat-az-oet-rol/>

<sup>8</sup> Act LXXIII of 2009

(original Hungarian abbreviation: OKÉT), which managed to stay the same regarding both operation and rights even after the government change in 2010.

Upon a decision passed by the OÉT in 2002, the Economic and Social Council (original Hungarian abbreviation: GSZT) was founded in August 2004 with the objective to carry out consultation on national strategies. Its members were made up by representatives from the economic sector, employees, representatives from the civil sector and also science, although, according to its constitution the state itself was not a full time member, and its representatives only contributed to the work carried out by the GSZT through being permanently invited to join the consultations. The most important rights held by the GSZT were the following: consultation (as mentioned above), expressing position and opinion, forming of proposals, and acceptance of recommendations.

### **The development of sectoral level social dialogue:**

In February 2001 the National Labour Council arrived to a decision concerning the development and improvement of social dialogue on a sectoral level, and also decided to launch a PHARE program in order to realise this goal. The main objective of the program was setting up Sectoral Dialogue Committees (original Hungarian abbreviation: ÁPB).

On the 22<sup>nd</sup> September in 2004 the government and the social partners have signed an agreement – reached with a consensus – on operational terms of ÁPB-s, which laid down the fundamentals for sectoral level social dialogue for the following five years.

In 2009 Act LXXIV of 2009 on Sectoral Dialogue Committees and on Certain Issues of Intermediate Level Social Dialogue was passed which currently is still in force.

The ÁPB is a bipartite body with the aim to support the balanced development of the given sector, as well as to help the realization of autonomous social dialogue on a sectoral level. It aims to preserve “peace at work”, to facilitate lawful practices and

processes on the labour market and also to establish appropriate working conditions in general.

From the aspect of official jurisdiction it focuses on issues regarding the situation and development of the given sector, as well as regarding economical and labour related questions.

Within the boundaries of the ÁPB (according the text of abovementioned act on ÁPB-s) there is a possibility (for those entitled to do so) to conduct collective- and other agreements, and also to officially ask the minister in charge of social dialogue related matters<sup>9</sup> to extend an already existing agreement in order to cover the entire sector.

### **Legal environment regarding labour issues between 1992 and 2012:**

After the regime change, due to the changes regarding ownership there was a need to revise labour related legal regulations regarding all types of work relationships. As a result, starting from 1992 a tertiary articulation of labour related legal regulation was formed and a separate act regulates labour law in the private sector, a separate one regulates work relationships in the case of civil servants and a third one in the case of public servants.

The act regulating industrial relations in the private sector, as well as all related institutions and employers operating in the private sector together with employees employed by them and the labour relationships between them was in force from the 1<sup>st</sup> of July 1992. This was Act XXII of 1992 on the Labour Code (of Hungary) that replaced the previous act on labour law which was in force from 1967. The most important factor behind this event was the fact that it has been prepared by a series of tripartite consultations.

As opposed to regulations typical to the previous regime (as in regulating every aspect in detail on a centralised level) the Labour Code of 1992 aimed to only regulate the so called minimum standards (the elements of the labour relationship

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<sup>9</sup> According to Sections 3-4 of Act LXXIV of 2009. currently the Minister of National Economy is in charge of social dialogue related matters.

that were backed up by judicial and government guarantees) of the labour relationship leaving a set of questions and issues to be addressed by the employers and their employees. This created a situation in which the parties had the opportunity to differ from the legal text provided they did so in the favour of the employees [based on the principle of welfare which states that a lower level agreement may only differ from that of a higher level one (in this case the higher level agreement being the legal text and the lower level one being the labour contract or a collective agreement) in a positive manner (meaning to the benefit of the employees)]. Although there were a number of questions where the regulations were dispositive, meaning the parties had the opportunity to differ from the legal text both in favour of the employees and both to their detriment.

The emphasis was gradually placed on the (individual and collective) agreements of the parties with special regard to the fact that the employees are the weaker party due to their economic nature. As a result the legal regulation emphasised collective institutions, participants of collective bargaining and their agreements and strictly specified the questions where deviation from the legal text is null and void. The Labour Code of 1992 was replaced by Act I of 2012 on the Labour Code (of Hungary) which is in force from the 1<sup>st</sup> of July 2012.

## II. INITIAL INDUSTRIAL / SOCIAL DIALOGUE SYSTEM OF THE COUNTRY

### **The system of collective bargaining and its participants:**

The dominant level of the process of collective bargaining and conclusion of collective agreements in Hungary is the local or corporate level. This results in the number of collective agreements being relatively low. Naturally the low number of sectoral collective agreements has several other reasons as well, as there is no real cooperation between the sectoral representatives of employers' and employees' organisations, not to mention that they are not fully empowered to conclude collective agreements on their own on sectoral and national levels, furthermore the means and methods of ÁPB-s to use their financial funds are rather bureaucratic which means they lack flexibility and administration is significantly slow. The creation of more comprehensive industry groups present in multiple sectors result in the system of sectoral interest reconciliation being pulled more and more apart by the owners' interests. There are no real guarantees in respect of the extension of sectoral level collective agreements, which means that the procedure is rather complex and difficult. Furthermore structural changes initiated from political sides, concerning certain sectors are not sufficiently developed and as such do not take the sectoral system into account.

According to the most up to date data available at the Hungarian Central Statistical Office (KSH) during the second half of 2014 there were 1.059 active trade unions in Hungary. The trade union density is showing a continuous decrease ever since the regime change and has unfortunately always been relatively low, at around 8-9%. Collective bargaining (agreement) coverage has also shown a continuous but rather drastic decrease. At the time of the regime change it was around 80%, in 2003 it has already dropped to 40% and in the first half of 2015 it was only around 25%.

The number of trade union confederations has increased from six to seven. On the 1<sup>st</sup> of May in 2013 MSZOSZ, ASZSZ and SZEZ<sup>10</sup> has agreed to create a new

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<sup>10</sup> MSZOSZ is the official Hungarian abbreviation of the National Confederation of Hungarian Trade Unions, ASZSZ is that of the Autonomous Trade Union Confederation and SZEZ is the Forum for the Co-operation of Trade Unions

confederation together through fusion, which was realized in 2014 and was named Hungarian Trade Union Confederation (original Hungarian abbreviation: MSZSZ). As such legal procedures are rather bureaucratic in Hungary and take a relatively long time which in this case was even hindered by internal disputes the confederations participating in the fusion are still present separately as well.<sup>11</sup>

Rules and regulations regarding the rights of trade unions with representation at the employer as well as rules and regulations regarding the process of corporate level collective bargaining and conclusion of collective agreements can be found in the labour code (currently in force).

Sectoral level social dialogue is being carried out according to the previously mentioned act on ÁPB-s passed in 2009. Tripartite social dialogue on a national level however has been abolished in 2011. It has been replaced by the National Economic and Social Council (original Hungarian abbreviation: NGTT) which is a multipartite (five-sided) civil dialogue forum with the government not being a member.

### **Criteria regarding representativeness:**

National level criteria for representativeness regarding the social partners used to be listed in the Act on the OÉT (from 2009),<sup>12</sup> but this regulation has been repealed by the establishment of the NGTT. The Act on NGTT only mentions national level representatives of the interests of employees and employers but does not go into any more detail regarding their right to participate in the work carried out by the institution, which means that those who used to be members of the OÉT practically automatically became members of the NGTT as well.

Sectoral level representation criteria regarding the social partners are included in the Act on ÁPB-s<sup>13</sup>, whereas in the case of the dominant corporate level all requirements and criteria are included in the labour code of 2012.

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<sup>11</sup> The SZEF has later terminated its membership from MSZSZ.

<sup>12</sup> Sections 5-6 of Act LXXIII of 2009

<sup>13</sup> Act LXXIV of 2009

According to the legal text, a trade union with representation at the employer shall be entitled to conclude a collective agreement if its membership reaches 10% of all workers employed by the employer.<sup>14</sup>

### **Changes from 2010 and onward:**

Following the government change in 2010 the role of multipartite social consultation gradually began to increase instead of tripartite social dialogue. As a first step in October 2011 the NGTT was established, by passing a legal act. A five-sided dialogue forum, engaged solely in consultation has thus replaced the institution of tripartite interest reconciliation that included all members from both the employees' and the employers' side that managed to meet the representativeness criteria determined by law, as well as the government as a permanent and full time member.

Following the establishment of the NGTT, due to the pressure from certain social partners, the Permanent Consultation Forum Between the Private Sector and the Government (original Hungarian abbreviation: VKF) was also established and the OKÉT (established in 2002) was (and still is) operating in the same time. But these institutions are independent from both the NGTT and each other.

There were also changes regarding the legal regulations of the field not solely institution-wise, and these changes were also followed by constant debates (and still are ever since). A new labour code was passed soon to be followed by the new civil code, both of which affected the regulation of other forms of work relationships as well. Regarding the new labour code the governing aspect seemed to be that both employees and employers are to be viewed as equal partners who may carry out negotiations and conclude agreements (including the labour contract) freely. Accordingly regulations of the new labour code are mostly dispositive, encouraging both individual and collective agreements.

The objective of the lawmaker seemingly was to achieve trade union autonomy and correspondingly placed emphasis on promoting the conclusion of collective

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<sup>14</sup> For the detailed regulation please refer to Section 276 of Act I of 2012.

agreements, although in numerous cases the rights and “arsenal” of trade unions have been greatly weakened or in some cases, removed completely. Some of the most stressful matters include the following: the classic rights of the trade unions strengthening their negotiating position were either restricted or transferred to the works councils, the criteria for representativeness have also been amended, the rules of working time reduction and protection from dismissal have been reduced and weakened and there is virtually no legal sanction for not observing regulations regarding collective rights of the employees, furthermore, trade union officials are not to be viewed as representatives of the employees.

Regarding employment relationships with public employers the new labour code introduced restrictions uncharacteristic to the private sector, which means that regulations shall not be differed from at all regarding either works councils or trade unions and in some questions the scope of collective agreements have also been restricted or limited. The main reason behind this was the fact that in these cases the employers’ majority is owned by the state and as such the operational costs are to be financed from the national budget. According to the lawmaker, this should serve as an adequate reason for these legal restrictions to be applied.

The latest amendments (from 2010) of the Act on Strike also had a vastly negative influence on the industrial relations system in Hungary as these changes in regulations seem to rather hinder the organization of strikes in general than to promote their successful use. Although this might be the most sensitive question among all, as it is a fact that the number of strikes was not high even prior to the amendments and the willingness to strike is extremely low in Hungary in general<sup>15</sup>, so it would be false to assume that the sole reason for trade unions not to organize strikes being the aforementioned amendments but they certainly did not contribute to improving the situation either.

One of the most critical opinions communicated regarding the changes and implemented measures was that the government was not willing to consult all of the

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<sup>15</sup> Between 1991 and 2013 there were 147 strikes organized altogether.

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social partners regarding these matters but rather took on the role of representing everyone.<sup>16</sup>

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<sup>16</sup> “It is not possible that the employers are represented by the employers’ side and the employees are represented by employees’ organisations; the government exists to represent all of its voters, which means both the employees and those who employ them” Orbán, Viktor Hungary’s prime minister 2010.

### III. CURRENT INDUSTRIAL RELATIONS / SOCIAL DIALOGUE SYSTEM OF THE COUNTRY

#### **The National Economic and Social Council (NGTT):**

Ever since the cessation of the OÉT national level tripartite social dialogue has seemingly disappeared with it. The NGTT is rather the successor of the GSZT established in 2002 (mentioned in the Introduction). The NGTT was established by a legal act (Act XCIII of 2011) that contains its main objectives and its constitution. According to the aforementioned act the Council is a consultative, reviewer and proposing body that operates separately from parliament and the government in order to discuss national strategies on comprehensive affairs of economic and social nature, with regard to social development regardless of government terms, to promote harmonious and balanced economic development and to develop and realize relating social models. It includes members organisations representing the interests of the employees' and employers', the Chamber of Commerce, NGO-s engaged in activity regarding nation policy, domestic and cross-border representatives of science and the churches, among whom it aims to carry out civil dialogue (although the legal text mentions “social dialogue”) being the most comprehensive multipartite consultative forum.

#### **The Permanent Consultation Forum Between the Private Sector and the Government (VKF):**

The VKF (established in 2012) defines itself as a tripartite consultative, reviewer and proposing forum engaged in preparation of government decisions regarding economic matters directly related to the private sector, although it also lists concluding agreements among its objectives.<sup>17</sup> Its main forum is the body session that shall be summoned and held at least once every six months. The body session

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<sup>17</sup> The objectives of the reconciliation and harmonization of the intentions of the members organizations representing the interests of employers and employees of the private sector and the government, devise agreements, exchange of information and negotiation of regulatory proposals. (Agreement on the establishment and order of business of the Permanent Consultation Forum Between the Private Sector and the Government 22<sup>nd</sup> February 2012.)

is private where the issues on the agenda are being discussed, and relating opinions and recommendations are being formulated. The VKF has the following seven members: the government, three confederations from the employers' side and three trade union confederations.<sup>18</sup> The requirements to participate are not regulated legally, they are based on the agreement of the founding and currently participating members. The financial background for its operation is guaranteed by the government.

### **The National Public Service Interest Reconciliation Council (OKÉT):**

The OKÉT is engaged in all questions regarding wage policies, labour and employment related issues concerning any and all people working in the public sector, including civil servants, public servants, professional members of armed forces and law enforcement, professional and contracted members of the Hungarian Defence Force, etc. It was established on the 20<sup>th</sup> of December in 2002 and has managed to operate ever since with relatively the same structure and functions. Currently it operates in parallel with the VKF, but is fully independent (from both the NGTT and the previously mentioned VKF). During its plenary sessions the OKÉT discusses the following matters (mainly but not exclusively): wage policies of the public sector, wage growth possibilities in relation to the national budget, changes regarding the wage systems. Although it must also be mentioned that the Minister of National Economy<sup>19</sup> has only joined the plenary sessions on abovementioned topics five years later and it still is a rare occasion for him to personally participate.

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<sup>18</sup> Employers' side: VOSZ (National Association of Entrepreneurs and Employers), MGYOSZ (Confederation of Hungarian Employers and Industrialists), ÁFEOSZ-Coop Szövetség / KÉSZ (National Federation of Consumer Co-operative Societies and Trade Associations /Association of Small and Medium-Sized Enterprises'); employees' side: LIGA, MSZOSZ, National Federation of Workers' Councils (MSZOSZ shall be replaced by the MSZSZ after the administrative process regarding the fusion is done).

<sup>19</sup> The organization in charge of social dialogue operates within the Ministry of National Economy, as a result the minister in charge of social dialogue related questions (referred to in the Act on ÁPB-s) is currently the Minister of National Economy.

#### IV. THE SOCIAL PARTNERS AND THE CRISIS

As a result of the economic crisis that started in 2007-2008 and spread across Europe (naturally reaching Hungary as well) active participants of Hungarian social dialogue (with special regard to the members organizations representing the interests of employees) had to realize that economic-, labour- and employment policies and processes that they were used to are no longer sustainable. The situation become worse when the economic crisis became a government debt crisis, and thus the top priority for the national economic policy became the consolidation of public finances and debt reduction. In order to achieve the most in the shortest time possible, serious austerity measures were introduced which had severe effects on the industrial relations system and its participants – especially regarding the ability of interest validation.<sup>20</sup> The need for flexible employment has arisen with a never-before seen intensity in the field of employment policy which gradually eclipsed the main objective of a comprehensive social policy strategy known by the name of the Social Dimension of the EU, the principle of “Flexicurity”.<sup>21</sup>

As a result to all the above mentioned factors, shortly the Hungarian trade unions also had to face a difficult challenge, namely that government actions issued in order to successfully recover from the economic crisis will most likely have the following consequences: governmental guarantees achieved earlier will have to be weakened and decreased or in some cases they might even be lost entirely, also true dialogue between the state and social partners will most likely be ceased and all these serious issues are awaiting their reactions.

##### **Austerity measures, crisis management:**

In March 2011 the Hungarian Government – with respect to the EU agreement concluded in June 2010 – has prepared the Széll Kálmán Plan which served as basis for the stability and convergence programme. The programme was submitted on the 13<sup>th</sup> of April in 2011 and it is to cover the period between 2011 and 2015. According

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<sup>20</sup> Industrial Relations in Europe (Executive Summary) Publishing Office of European Union 2013.

<sup>21</sup> According to EU objectives, making employment more flexibel shall not make it less secure. This is the principle of flexible security (flexicurity) which has always been debated by many as the two terms basically contradict each other.

to the Convergence Program, the Széll Kálmán Plan aims to decrease the government debt, through the strengthening of economy and the increase of employment. In order to escape the “debt trap” three steps need to be followed: the debt has to be decreased while achieving the biggest economic growth possible and while avoiding debt reproduction. The Széll Kálmán Plan focuses on the following areas: labour market, pension system, public transportation, tertiary education, drug and medication price support system, local governments and administrative costs charged to companies.<sup>22</sup>

Direct and indirect measure of the Széll Kálmán Plan include the following: abolishment of the job seekers’ benefit and tightening the conditions to receive job seekers’ allowance (decreasing both payment time and amount), revision and amendment of regulations regarding sick leave payments, limiting the amount of social transfers, nominal decrease of family support benefits, abolishment of step-by-step retirement and early retirement, reforming the invalidity pension system, “nationalization” of 98% of the private pension payments, decrease in the number of state scholarships in tertiary education, introduction of flat personal income taxation, introduction of electronic toll (proportional to road use), abolishment of the OÉT, introduction of the new labour code and amendment of the Act on Strike.

### **Labour market statistics:**

According to data published by the Hungarian Central Statistical Office (and the most up-to-date data available at present) the number of employed people between ages 15 and 74 show a constant increase. Viewing only registered people in employment, their number rose from 3.7 million in 2010 to 4.2 million by 2015.<sup>23</sup> Around 90% of these people work in labour relationships, as employees. The rate of employment was 48.7% in 2010, which also rose till 2015 and reached 54.1%. The rate of unemployment has shown a gradual decrease. In 2010 it was 11%, by 2013 it dropped to 10%, in 2014 it was 7.7% and in 2015 it is at 7%. The amount of the monthly subsistence level per capita (in families with only 1 active income) has risen

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<sup>22</sup> Convergence Programme for Hungary 2011

<sup>23</sup> The increase in employment is primarily a result of the Community Service Programme and partially as a result of fighting unregistered employment.

from 78,736 HUF in 2010 to 87,351 HUF by 2015. The average wage of employees has also increased slightly, as it was 230,700 HUF in 2013 and is now around 243,200 HUF in 2015. The gross amount of the minimum wage was 73,500 HUF in 2010, while it is 105,000 in 2015. The inflation rate between 2013 and 2015 showed a value of around 1.0-0.4%.

### **Legal regulation of labour law from 2012:**

According to the minister's justification on the 1992 Labour Code the government's intention was to retool the economy (marketwise) since up until that point a public administrative aspect prevailed and the goal was to strengthen the private law approach. This line of conduct reached its peak with Act I of 2012 with the intensive revision of governmental guarantees of the employees. Starting from the regime change the state gradually transformed from "owner" to an actor of public law enforcement. The new labour code follows the logic of legal regulations passed starting from the regime change with the exception that it has also decreased the level of minimum standards of worker protection. The legislative intent driven by market oriented processes can be well observed within the changes of regulations regarding collective labour law as well. Encouraging the use of collective bargaining and the conclusion of collective agreements (both in the previous labour code and the one currently in force) should serve as proof for the strengthening of a private law approach. Although while the 1992 labour code bestowed strong rights upon the trade unions, the new labour code (still emphasizing the need and necessity of collective agreements) revised and narrowed the rights of trade unions thus greatly weakening their position.

## V. BEST PRACTICES OF THE SOCIAL PARTNERS TO “MANAGE” CHANGES

The fifth chapter summarizes the contents of the interviews conducted with the leaders or other representatives of the most active and important social partners in Hungary. The following text is mostly subjective as it reflects on the personal opinions and experiences of the interviewees, but they do show the social partners’ aspect, fears and perspective about the current state and processes of social dialogue, the state of play of the trade union front, change management attempts, results and occasional failures.

Representatives who agreed to answer our questions were: Pataky, Péter (president of the MSZOSZ), Gaskó, István (president of LIGA), Kuti, László [president of the Confederation of Unions of Professionals (ÉSZT)], Székely, Tamás (president of ASZSZ), Földiák, András (president) and Fehér, József (OKÉT attorney) (both from SZEF), Dr. Dávid, Ferenc [secretary general of the National Association of Employers and Entrepreneurs (VOSZ)].

### **The situation of the trade union front:**

Gaskó, István commented: the LIGA and trade unions in general have very little means to carry out real interest vindication since 2010. Reasons for this include the vastly negative amendment of the Act on Strike, the amendment of the Labour Code, the gradual deterioration of the situation of trade unions in general and the unwillingness of the government to negotiate with social partners. There were attempts to ameliorate the situation and some of these were even successful (regarding the new Labour Code for example). There were also attempts to demonstrate the power of certain trade unions in order to further convince the government and in some cases the employers to negotiate certain matters and issues but these seemed to have no effect unfortunately. Work still has to be done in the current situation and employees shall get all the help they need from trade unions. In order to achieve such goals, LIGA has applied for and participated in tenders and as a result managed to operate a legal aid service through which

approximately 70,000 people managed to get legal assistance. LIGA participated in the negotiation and signing of collective agreements, offered professional consultations and also supervised and coordinated a research project together with the University of Szeged (on the effects of the new Labour Code) of such a level and depth that is considered unique among the social partners in Hungary. Using only peaceful methods and instruments, LIGA managed to assist many employees, but could have achieved even more should such instruments not have been vastly weakened (by abovementioned factors). The problems with the current situation is that even though the changes affected all employees' organizations, there still seem to be fights among the line of trade unions and there still are trade unions that do not seem to take their own role seriously enough and do not carry out professional work at all. The first step towards strengthening the trade union front is to achieve unity and to establish the frameworks of cooperation among the trade unions. In order to convince the employees, the employers and the state trade unions need to be able to demonstrate professional success. A huge success for example was the establishment of MSZSZ and with it the birth of a bipolar trade union movement. The second step is to be able to negotiate the most important questions with the government. For this to happen negotiations shall continue within the VKF. In order to achieve this goal, the LIGA does not seclude itself from conflict either.

According to Pataky, Péter: in order to strengthen the trade union front there is a serious need for a paradigm change and this is true for the employers' side and even the government. During the past five years the social partners in Hungary had to face a government that does not see the importance of the instrument of social dialogue and does not aim to reach an agreement with the other parties. The only way to cope with such a government is through unity. For this to be achieved, vast changes are needed that not every party is willing to undergo. The establishment of MSZSZ was a realization of a long needed step towards the future but the real question is how it will manage to operate. Everyone should understand that the world has changed and if someone cannot or is not willing to adapt to such changes will eventually be left behind and vanish. The trade union front is full of personal conflicts, structural problems, envy and lagging behind. Should this not be viewed as a fact and addressed accordingly there is no future for the trade unions in Hungary. Revision of the distribution of membership fees should be top priority and in the same time the

issue of the professional training of officials shall be resolved. There would also be a great need for strategizing about “training successors”. Real communication is needed and a way to swiftly react to government measures and actions. Unfortunately no matter what happens solely on the employees’ side, it will not suffice as the current government is simply unwilling to negotiate which means that the government has to be changed or replaced as well.

Fehér, József added: the cessation of social dialogue and the inclusion of chambers – for example on the fields of education and law enforcement – and bestowing certain trade union rights upon them resulted in people falsely believing that there is no real need for trade unions. This led to a major loss of members in the public sector (from 400,000 members to only around 100,000). This aspect is constantly backed up by the government in an attempt to constantly degrade the system of industrial relations (and the rights of employees together with it) while trade unions can hardly gain access to media channels to reach the people. The inability to transmit the goals and aims of trade unions to the public in a way that is brief and easy to understand seems to pose as a huge problem. Trade unions in general cannot reach the public and for reasons unknown tend not to advertise their achievements. Unity and cooperation would be the only possible way for the future but the situation is exceptionally difficult as trade union confederations in the private sector do not seem to understand those in the public sector. In the case of employees in the public sector, the government and the prime minister are not only to be considered as lawmakers but also employers which seems to be hard to understand for people in the private sector. As long as this remains to be the case real change is not likely to be realized and the MSZSZ seemingly also overlooks this issue.<sup>24</sup>

Földiák, András’s answer was: the MSZSZ holds major potential. It was expected to become a strong alliance between confederations which would finally address the issues of public service accordingly, but unfortunately that does not seem to be the case so far. It should still be considered as an appropriate step towards the future. The main idea of uniting trade union confederations is commendable. Recently some

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<sup>24</sup> The SZEZ resigned its membership from MSZSZ on the 15<sup>th</sup> of September 2015.

connections surfaced between certain confederation leaders and the prime minister which served as the main reason to form a second pole of trade unions as the other confederations did not want to be left out of future negotiations. Unfortunately even these restructurings were not able to solve some fundamental problems of the trade unions. Should the trade unions be willing to form a political power further achievements may be reached. It seems that the current government is unwilling to ever engage in real social dialogue, which means a government change is inevitable for actual change to be achieved.

Székely, Tamás's opinion on the question: the establishment of MSZSZ shall be considered an important milestone regarding the past 25 years of the trade union front. Its primary goal was to unite scattered trade union activity which is exactly what needs to be done in the current situation. It seems to be a great problem that in most cases trade unions opinions are not welcome whereas they do possess adequate professional knowledge to address most issues. Naturally the establishment of MSZSZ was not an easy task. Among the countless hindering factors were the current political environment, general approach and structure, financial issues, and previous engagements. The main reason behind the establishment of MSZSZ was that originally four, later three trade union confederations<sup>25</sup> realized that the best answer to government actions and reactions is to unite and thus create a single, powerful confederation. It would seem that the current government can only be “forced” to sit down and negotiate and for this both structural improvements and an overall paradigm-change is needed. In some cases the confederations tend to think alike but not regarding every issue. But as long as they rather use their strength and resources to fight each other than to fight for the employees' rights they will lose credibility and eventually their members as well. Hungary currently faces a crisis on the front of credibility and solidarity which issues shall both be addressed as soon as possible. The situation seems to be that solely peaceful means will not be enough to restore national level interest reconciliation as the government does not intend to

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<sup>25</sup> The original plan for the establishment of MSZSZ was to include MSZOSZ, SZEF, ASZSZ and ÉSZT but ÉSZT never really expressed its opinion on the matter and on the 1<sup>st</sup> of May 2013 the declaration on the establishment and fusion was signed by MSZOSZ, SZEF and ASZSZ. In the same year ÉSZT signed a collaboration agreement with the National Federation of Workers' Councils in order to carry out interest representation more effectively.

support the idea. For any change to actually happen a government change is necessary.

Kuti, László added: the biggest problem of trade unions seems to be that they have become distant from the people whose interests they should represent and as a result people in general seem to understand less and less what the need is for trade unions to even exist. The main reason behind the constantly growing distance is the lack of education. People should rather be educated than moved although nowadays they seem to be extremely indifferent. There is (and always were) communication and real professional relationship between the majority of the confederations. There may have been and may still be times when confederations argue among each other but whenever the interest of employees came in to question, there was unity. Currently the situation is more difficult as there is no interest reconciliation on a national level, and as such confederations do not communicate with each other on a daily basis. Sometimes it seems that trade unions themselves are not certain of what their own goals are. In the past it seemed to be the source of problems that there was only one trade union confederation. After the regime change more appeared and currently the problem seems to be that there are too many to negotiate effectively. One thing seems to be certain though that the current government is not willing to participate in true social dialogue due to not even being interested in the social partners in general. With the current government, positive change to happen is highly unlikely. The situation of the employers is just as dissatisfactory as their power and possibilities are being weakened by the introduction of various chambers. If the trade unions really wish to get stronger they shall designate a common path and follow it together and most importantly they shall get close to the people who they represent.

### **The situation of the employers' side:**

Please note that naturally there would be multiple actors on the employers' side as well but only Dávid, Ferenc secretary general of VOSZ) has agreed to the interview at the time the research was conducted.

According to the secretary general: fortunately there never was a political dissension among the employers' confederations, but there always have been a major one

among the trade unions. The situation seems to be settled (more or less) among the employers' confederations, the goals seem to be common which is absolutely positive. Judging by the situation of trade unions and their confederations today, the idea not to confiscate the cumulative wealth of trade unions during the regime change but to leave it up to them to distribute amongst themselves (applied by the Antall- and Horn governments in the past) turned out to be a genius one. From this point on, the main concern of trade unions (and their confederations) was to fight amongst each other, which naturally greatly contributed to the fact that social dialogue was unable to function as it normally should. At the same time it should be noted that the government set up in 2010 did not treat the employers any differently, the representation of employers was also seized by the state (theoretically speaking) just as it was from the trade unions regarding the employees. As a result not only did the government sever the institutional system of social dialogue, but the Hungarian Chamber of Commerce and Industry (together with its leadership) has been placed above the employers' organizations as a head consultant. This decision itself holds many flaws. First of all it is a public body under the jurisdiction and direct control of the state which makes it far from being independent and also it does not count as a social partner. The same phenomenon can be observed on the trade unions' side as well, as the government established Chambers of Education and Health as well and with it seriously damaged the trade unions of these sectors. Seemingly the only partners the current government accepts are the ones who agree to their goals methods and perspective. Those who do not are not invited to negotiate. In order to achieve change a new government would not suffice. The entire system – including the industrial relations system – shall be renewed for that to happen.

## VI. CONCLUSIONS

Based on the available professional literature, news articles, government measures and on the interviews conducted with representatives of domestic social partners the following conclusions can be drawn:

- The government change in 2010 brought a primary paradigm change regarding labour related questions on the field of lawmaking and relating legal instruments as well.
- Lawmaking regarding labour related questions during the years following the regime change seem to designate an express path but this seem to point in a direction where both individual and collective labour will likely become difficult to handle making the situation of the employees worse and thus result in endangering the economy itself. A solution might be for social partners and the state to review both individual and collective rights together.
- The cessation of national level tripartite social dialogue did not happen as a direct result of the economic crisis in 2008 but the government formed in 2010 did include it as a reason.
- The NGTT “replacing” the OÉT is not suitable to be an institution of national level tripartite social dialogue as neither its structure nor its functions or rights show signs of the possibility to arrive to and sign agreements regarding the world of work.
- The VKF – in its current state – is not able to replace the OÉT either although it might have the potential to do so and form a legally regulated institution for social dialogue, but for this to happen it would be necessary for the state to directly express its intentions and commitment to the cause and take up an active role in the process.

- There seem to be numerous flaws regarding the fundamental definitions and their use which further hinder the much needed improvement of the industrial relations system.
- Trade unions are generally clear on the current situation as well as on the reasons that have led to it and possible consequences as well. The main problems are:
  - trade unions see the problem but do not know what to do or do not have the means to act;
  - trade unions tend to put more emphasis on trying to influence the amendments of legal regulations instead of using their rights currently at their disposal at a full potential;
  - trade unions became distant from their members and people in general.
- Interest representation as a whole should strengthen – both regarding actions and competencies – in order to become credible and strong partners of the other participants.

In everyday life it shall be considered a principle that people should listen to each other and that arising problems should always be discussed by both parties included, may they be colleagues or partners, and aim to arrive to a solution together. Even though interests may differ and power relations may not always be balanced between the parties, the aforementioned principle should still be observed related to the world of work as well. The goal is to get to know, understand and correctly use the instruments and institutions of industrial relations and social dialogue while observing the principles of cooperation, good faith and fairness at all times.

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