

THE REFORM OF THE LABOUR INTEREST RECONCILIATION IN HUNGARY¹

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ABSTRACT: *The interest reconciliation in the Hungarian Labour Law had been regulated insufficiently before last year. The Labour Code of 1992 had provisions only about National Interest Reconciliation, according to which the Government negotiated with the national trade unions and employers' interest representation organisations. Therefore, the sectorial and regional interest reconciliation was unknown in the world of Labour Law. Sectorial and regional interest reconciliation existed only in the public service owing to the Public Service Acts.*

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The interest reconciliation in the Hungarian Labour Law had been regulated insufficiently before last year. The Labour Code of 1992 had provisions only about National Interest Reconciliation, according to which the Government negotiated with the national trade unions and employers' interest representation organisations. The Act gives a list of labour cases which shall be discussed before this forum prior to their legal settlement. However, the Act regulated the participation in the National Interest Reconciliation Council as a member in a discriminative way. While the Act did not prescribe any conditions of the participation on the employers' side, the right for participation was connected to the ratio of the trade union's assets one was in the possession of on the employees' side. This regulation was rather disadvantageous for newly established trade unions. Apart from the aforementioned, the Act did not contain any provisions concerning either national or regional interest reconciliation. Therefore, the sectorial and regional interest reconciliation was unknown in the world of Labour Law. Sectorial and regional interest reconciliation existed only in the public service owing to the Public Service Acts.

Such insufficiency was eliminated by Act No. 73 and 74 as of 2009. Act No. 73 regulated in detail the conditions of the right for participation in the National Interest

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Reconciliation Council. The disadvantage of this regulation is that it is too bureaucratic, though its advantage is that it is no longer discriminative. I.) The conditions of the participation on the side of the trade unions are as follows: 1.) Having member organisations or regional or county member organisations in four sectors, twelve subsectors; 2.) Moreover, the trade union associations shall have minimum one hundred and fifty organisations on the places of work individually. II.) On the employers' side the conditions are the following: 1.) The association shall have member organisations in minimum two sectors and six subsectors; 2.) It shall have member organisations in three regions or ten counties; 3.) 80 % of its member organisations shall employ one thousand employees. III.) Finally, both sides shall have an existing membership in the European Association.

Act No. 74 regulates the sectorial and regional interest reconciliation. Sectorial and regional negotiating committees had already been established and worked prior to the publishing of this Act. However, the conditions of the participation in the committees are also too bureaucratic. I.) The conditions on the trade unions' side are as follows: 1.) The trade union shall have trade union representation at minimum ten employers; or 2.) at minimum three employers where the trade union received 10 % of the votes in the workers' council election; or 3.) if the trade union reached more than 50 % in the workers' council election at one company. II.) On employers' side the conditions are the following: 1.) Employing minimum forty employees, or 2.) One company shall employ 5 % of all the workers employed in the given sector.

Such a solution resembles the conditions set for trade unions in the process of concluding a collective bargaining agreement at a company, according to which the trade union which received 10 % of the votes in the workers' council election shall be entitled to conclude a collective bargaining agreement. If there is one trade union, then it shall reach 51 % in the workers' council election. However, if there is only one trade union out of more trade unions operating at a company which is willing to conclude a collective bargaining agreement, that trade union shall receive 65 % of the votes in the workers' council election. Such a solution is also rather complicated.

In order to simplify, we should take over the Bulgarian system, which is based on the Holland system. In Bulgaria, the conditions of the participation in the National Interest Reconciliation Council are as follows: I.) On the side of the trade unions: 1.) Having members as of 50,000 either individually or in alliance; 2.) A trade union shall represent a given sector by 51 % either individually or in alliance. II.) The conditions on the employers' side are similar to the aforementioned with a difference that the alliance shall have 500 members. The right for participation in the National Interest Reconciliation Council should follow the Bulgarian system and as far as the participation in the sectorial negotiating committees is concerned, the employers, the employees' alliances and the company trade unions - either individually or in alliance - should represent the given sector, subsector or company by more than 50 %.

Accordingly, the collective bargaining agreement may also be simplified. Independently of the workers' council elections, the one or more trade unions should be entitled to conclude a collective bargaining agreement which is either individually or in alliance should have a membership of more than 50 % at the company.

With such a solution, the trade union nomination in the workers' council elections may be eliminated. That nomination – similarly to the German solution – should fall within the competence of the nomination committee appointed by the resigning workers' council. Nevertheless, if the representation of trade unions still depended on the workers' council elections, it would be worth taking over the Spanish automatic selection system, which is built from the bottom to the top and dependent upon the ratio of the individual participation and the participation of the members at the given levels, where those who do not reach 50 % at the given level either individually or in alliance should automatically fall out, although at the following level they may even get back based on summary.

The situation in Hungary is further complicated by the system according to which up to company level, the representation depends on the workers' council election, while from company level upwards, the representation is determined by legal regulations. Therefore, we can say that at lower levels, the Spanish model of the workers' council election, while at upper levels, the French-Belgian-Holland model prevails in Hungary. Consequently, the situation is further complicated.

