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EUROPEAN SOCIAL CHARTER

8th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF HUNGARY

Article 2, 5, 6, 21 and 22

for the period 01/01/2013 - 31/12/2016

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CYCLE 2018

Ministry of Human Capacities

NATIONAL REPORT

Fourteenth Report

on the implementation of the commitments set forth in the Revised European Social Charter

Submitted by the Government of Hungary

covering the period from 1st January 2013 until 31st December 2016

Budapest, 2017

Pursuant to Article C of Part IV of the Revised European Social Charter, the implementation of the commitments undertaken in the Charter shall be submitted to the same supervision as the European Social Charter. Under the reporting procedure set out in Article 21 Part IV of the European Social Charter, the reporting obligation extends to the accepted articles of the European Social Charter. Pursuant to the decision of the Committee of Ministers of the Council of Europe adopted on 2 April 2014, the 2016 National Report relates to the topic “Labour rights”.

The report covers the implementation of the following Articles of the Revised European Social Charter, ratified and approved by Hungary, with regard to the reporting period between 1 January 2013 and 31 December 2016:

Provision
Article 2, paragraph 1
Article 2, paragraph 2
Article 2, paragraph 3
Article 2, paragraph 4
Article 2, paragraph 5
Article 2, paragraph 6
Article 2, paragraph 7
Article 5
Article 6, paragraph 1
Article 6, paragraph 2
Article 6, paragraph 3
Article 6, paragraph 4
Article 21
Article 22

Concerning the Articles above, Hungary fulfilled its reporting obligation in 2013. This National Report has been prepared on the basis of the questionnaire approved by the Committee of Ministers of the Council of Europe on 26 March 2008, and with a view to the above-mentioned decision adopted on 2 April 2014.

The report incorporates the answers of the Government to the specific questions and statements raised by the European Committee of Social Rights (hereinafter referred to as ECSR) in its Conclusions of 2015 about the report on the provisions relating to the thematic group “Labour rights” as well as to the questions and conclusions concerning Articles 10 and 15 of the report of 2016 on “Employment, Training and Equal Opportunities".

Taking into consideration the fact that, pursuant to Article 23 of the Charter, national organisations with membership of international representative organisations of employers and employees may deliver an opinion on this National Report, the report has been sent to the National Economic and Social Council (NGTT). NGTT has not submitted comments or opinion to the report.

List of legislation referred to in the Report

- Fundamental Law of Hungary
- Act II of 1989 on the right of association
- Act VII of 1989 on strikes
- Act XCIII of 1990 on fees and charges
- Act IV of 1991 on promotion of employment and provisions to the unemployed
- Act XXIX of 1991 on the voluntary payment of the employee representation membership fee
- Act XXXIII of 1992 on the legal status of public servants
- Act XXXVIII of 1992 on public finances
- Act XCIII of 1993 on labour safety
- Act LXXV of 1996 on labour inspection
- Act LXVI of 2000 on the promulgation of Convention No 132 of the International Labour Organisation concerning Annual Holidays with Pay, adopted at session 54 of 1970
- Act XCV of 2001 on the legal status of professional and contracted military personnel of the Hungarian defence forces
- Act XXI of 2003 on the establishment of a European works council or a procedure for the purposes of informing and consulting employees
- Act LXXXIV of 2003 on certain aspects of performing healthcare activity
- Act CXL of 2004 on the general rules of public administrative procedures and services
- Act X of 2006 on co-operatives
- Act LXI of 2008 on the amendment of Act XXXIII of 1992 on the legal status of public servants
- Act XXXVIII of 2009 on the amendments of acts affecting the requirement of regulated labour relationships and other measures necessitated from the aspect of labour
- Act CXXVI of 2009 on the amendment of certain acts on labour issues
- Act CLII of 2009 on simplified employment
- Act CLIV of 2009 on the amendment of certain acts on health issues
- Act LXXIII of 2009 on the national council for the reconciliation of interests
- Act LXXIV of 2009 on dialogue committees at sectoral level and on certain issues of intermediate level social dialogue
- Act XXXIX of 2010 on the amendment of certain social and employment regulations after the entry into force of the new Civil Code
- Act LVIII of 2010 on the legal status of government officials
- Act LXXV of 2010 on simplified employment
- Act XC of 2010 on the establishment and amendment of certain acts of an economic and financial nature
- Act CLXXV of 2010 on the amendment of Act XXXIII of 1992 on the legal status of public servants
- Act LII of 2011 on the amendment of Act LVIII of 2010 on the legal status of government officials and the amendment of act XXIII of 1992 on the legal status of civil servants
- Act XCIII of 2011 on the National Economic and Social Council

- Act CV of 2011 on the amendment of certain labour and other related acts for legal harmonisation purposes
- Act CXII of 2011 on the right of informational self-determination and on freedom of information
- Act CXLI of 2011 on the amendment of Act CXXII of 2010 on the National Tax and Customs Administration and certain related acts
- Act CLXXV of 2011 on right of association, non-profit status, and the operation and funding of NGOs
- Act CLXXXI of 2011 on the court registration of NGOs and related rules of proceeding
- Act CLXXXVII of 2011 on vocational training
- Act CXC of 2011 on public education
- Act CXCI of 2011 on the benefits of persons with changed working capacity and the amendment of other acts
- Act CXCV of 2011 on public finances
- Act CXCIX of 2011 on public officials
- Act CCI of 2011 on the amendment of certain acts related to the Fundamental Law
- Act I of 2012 on the Labour Code
- Act V of 2012 on transitional, amended and repealed rules related to the act on public officials and the amendment of certain related acts
- Act LXXXVI of 2012 on the transitional provisions and amendments of acts related to the promulgation of Act I of 2012 on the Labour Code
- Act CCV of 2012 on the legal status of private soldiers
- Act V of 2013 on the Civil Code
- Act CIII of 2013 on the amendment of certain acts relating to calculating payments for periods of absence and regulating public funds
- Act LXXVII of 2013 on adult education
- Act XLII of 2015 on the service relations of the members of law enforcement bodies
- Act LII of 2016 on state officials
- Act LXVII of 2016 on establishing the central budget of Hungary for 2017
- Government Decree No 24/2011. (III. 9.) on the Determination of Representativeness of Trade Unions operating at employers subject to Act XXXIII of 1992 on the Legal Status of Public Servants
- Government Decree No 368/2011. (XII. 31.) on the implementation of the Public Finance Act
- Government Decree No 30/2012. (III. 7.) on the Working Time and Rest Periods of Public Officials, the Administrative Break, Certain Obligations of the Public Official and Employer, and Teleworking
- Government Decree No 393/2013 (XI. 12.) on the rules of procedures and requirements of giving permission to institutions launching trainings, of the register of these institutions and of their control
- Government Decree No 320/2014 (XII. 13.) on the designation of the public employment service, the occupational safety and health authority and the employment authority, and on performing the official and other tasks of these bodies

- Decree No 2/2004. I. 15.) of the Ministry of Employment and Labour Affairs on the Detailed Rules of the Declaration and Registration of Collective Agreements

- Decree No 11/2012. (II. 29.) of the Ministry of Public Administration and Justice on the forms to be used by civil organisations in court procedures
- Decree No 15/2013 (II.26.) of the Ministry of Human Capacities on the operation of institutions providing pedagogical services

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ARTICLE 2: THE RIGHT TO JUST CONDITIONS OF WORK

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

The rules relating to the organisation of working time are included in Act I of 2012 on the Labour Code (hereinafter referred to as Labour Code), in Chapter XI entitled Working Time and Rest Period. In the reporting period the following legislative amendments were made concerning the reasonable determination of the daily and weekly working time.

In respect of the organisation of working time, as from 1 January 2014, Act CXIII of 2013 on the amendment of certain acts relating to calculating payments for periods of absence and regulating public funds amended Section 96(2) of the Labour Code as follows:

"Section 96(2) of the Labour Code: The employer may transfer the right of organising working time in writing – with regard to creating a work schedule independently – to the employee (flexible working arrangements). The flexible nature of the working arrangements is not affected by the employee being able to do some of the tasks – due to their special characteristics – at a given time or period."

According to Section 96(1) of the Labour Code, the rules relating to work schedules are laid down by the employer. The work schedule continues to be the most important legal concept relating to the organisation of working time, which is based on that the employer can determine the employee's working arrangements in accordance with the rules prescribed in the work schedule.

Basically, the work schedule is fixed, which means that the right of the organisation of working time is exclusively within the employer's competence. At the same time, flexible working arrangements are regulated in Section 96(2) of the Labour Code. The employer may transfer the right of organising working time only with regard to the specific characteristics of the job, i.e. the right of organising working time can only be transferred, if the specific characteristics of the job or the duty actually make it possible for employees to organise work on their own. Flexible working arrangements can be used in the case of employees who are able to manage work processes independently, which enables them to determine the time of performance too.

Pursuant to Section 135(1)a) of the Labour Code, in the agreement between the parties or in the collective agreement no derogation is allowed from the mandatory provision included in Section 96(2) of the Labour Code.

The aim of the legislative amendment made in the examined period was to clarify the conditions of the applicability of flexible working arrangements and to determine such conditions by law, in compliance with the governing standards of the European Union (the case-law of the European Court of Justice[1] and Directive 2003/88/EC concerning certain aspects of the organisation of working time).

Among the rules of organising working time – under Title 53 "Daily Rest Period" – the concept of the compensatory rest period has been introduced in the national labour law. The legislative amendment is contained in Section 124 of Act LXVII of 2016 on establishing the central budget of Hungary for 2017, as follows:

"Section 104(1) of the Labour Code: Employees shall be afforded at least eleven hours of uninterrupted rest period after the conclusion of daily work and before the beginning of next day's work (hereinafter referred to as daily rest period).
(2) At least eight hours of daily rest shall be provided to employees working
a) split shifts,
b) continuous shifts,
c) multiple shifts, or
d) in seasonal jobs.
(3) If the daily rest period falls on the date of switching to summer time, it shall be at least ten hours, or at least seven hours in the case of the application of Subsection (2).
(4) In the case of the application of Subsection (2) or (3), the joint term of consecutive daily rest periods shall be at least twenty two hours.
(5) After an inactive stand-by period the employee shall not be entitled to any rest period."

In order to ensure that the rules relating to the so-called equivalent periods of compensatory rest as defined in Directive 2003/88/EC concerning certain aspects of the organisation of working time are properly transposed into national legislation, Section 104 of the Labour Code was established again during the legislative amendment. The concept of the periods of compensatory rest is defined in Subsection (4) stating that following a daily rest period, which is shorter than the minimal daily rest period ensured by law, the employee is entitled to a longer rest period supplemented at least with the resting hours not provided, i.e. the joint term of the consecutive daily rest periods shall be at least twenty two hours.

The amendment was based on the case-law of the European Court of Justice[2], which, when interpreting "equivalent periods of compensatory rest" mentioned in Article 17(2) of Directive 2003/88/EC, stated in its judgement that such rest periods must follow on immediately from the working time which they are supposed to counteract in order to prevent the worker from experiencing a state of fatigue or overload owing to the accumulation of consecutive periods of work. During such

[1] Case C-484/04: Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland
[2] Union syndicale Solidaires Isère, case C-428/09, Section 50

periods employees shall not be subjected to any obligation vis-à-vis their employer which may prevent them from pursuing freely and without interruption their own interests in order to neutralise the effects of work on their safety or health.

Furthermore, the law clarifies the rules relating to daily rest periods in the context of fulfilling the obligation of ensuring at least eight hours of daily rest period, or at least seven or ten hours of daily rest period on the date of switching to summer time, by determining the amount of the daily rest period to be ensured.

In the scope of regulating working time, the Labour Code contains provisions relating to overtime work: Section 107 determines the cases of overtime work, Section 108 determines the conditions of ordering overtime work, and Section 109 determines the maximum amount of overtime work that can be ordered a year. Section 143 of the Labour Code contains provisions relating to financial consideration due for overtime work. As from 1 August 2013, these provisions were amended by Act CIII of 2013 on the amendment of certain acts relating to calculating payments for periods of absence and regulating public funds, as follows:

"Section 143(1) of the Labour Code: Employees shall be entitled to compensation as determined in Subsections (2)-(5) on top of their wages due for regular working hours.
(2) In accordance with the relevant employment regulations or by agreement of the parties, employees shall be entitled to a fifty per cent wage supplement or to time off:
a) for overtime work performed in addition to the daily working time shown in the work schedule,
b) for work performed over and above the hours covered within the framework of working time banking, or
c) for work performed above and beyond the payroll period.
(3) The duration of time off may not be less than the overtime work ordered or the work performed, and shall be remunerated by a commensurate part of the basis wage.
(4) Where overtime work is ordered on the scheduled weekly rest day (weekly rest period), a one hundred per cent wage supplement shall be paid. The wage supplement shall be fifty per cent, if the employer provides another weekly rest day (weekly rest period).
(5) Where overtime work is ordered on a public holiday, the employee shall be entitled to a wage supplement as under Subsection (4).
(6) The time off or the weekly rest day (weekly rest period) mentioned in Subsection (4) shall be allocated at the latest during the month following the month when the overtime work was performed, or by the end of working time banking cycle or the payroll period in the case of an irregular work schedule. In connection with work performed in derogation of the above, or over and above the relevant working time banking arrangement, time off shall be provided by the end of the next working time banking cycle at the latest.
(7) By agreement of the parties, time off shall be provided by 31 December of the following year at the latest."

The legislative amendment supplemented the provision of Section 143 of the Labour Code with a guarantee arrangement supporting the practical application of the law,

by inserting a new Subsection (1), as a result of which the numbering of the further subsections of this section has changed.

According to the Labour Code, additional use through overtime work can be remunerated in the form of a wage supplement, time off, a flat-rate fee, or, in certain cases, basic wages also including a wage supplement. Employees shall be due remuneration for overtime work on top of their ordinary wages. Employees shall be entitled to all types of remuneration that are due to them for work performed during regular working hours. In order to clarify this, it is emphasised in the legislative amendment that employees are entitled to compensation for overtime work on top of the wages due to them for regular working hours.

A. Rules applicable to public service officials

The provisions of Act CXCIX of 2011 on public service officials (hereinafter referred to as Public Service Officials Act) relating to working time did not change in the reference period, and the rules relating to daily and weekly working time and the general working schedule are still determined in Section 89(1) of Public Service Officials Act. Pursuant to this, a full day's working time is 8 hours a day, while the weekly working time is 40 hours a day, and it lasts from 8:00 a.m. to 4:30 p.m. on Mondays to Thursdays, and from 8 a.m. to 2 p.m. on Fridays (general work schedule). Pursuant to Section 91(4) of the Public Service Officials Act, in the case of government officials the exerciser of the employer's rights can determine working arrangements that derogate from the general work schedule. At the same time, according to Section 92(1) of the Public Service Officials Act, the daily working time of government officials according to the schedule – except for part-time work – cannot be less than 4 hours. The upper limit of the working time according to the schedule is determined in Section 92(2) of the Public Service Officials Act, on the basis of which the scheduled working time of government officials cannot be more than 12 hours a day and 48 hours a week. Pursuant to Section 97(7) of the Public Service Officials Act, the duration of on-call duty may not be more than twenty four hours, which shall also include the duration of ordinary work and ordered overtime work scheduled for the day of starting on-call duty. Pursuant to Section 97(8) of the Public Service Officials Act, the monthly duration of on-call duty may not be more than one hundred and sixty eight hours, which shall be taken into account on average when working time banking is applied.

Act LII of 2016 on state officials (hereinafter referred to as State Officials Act) entered into force on 1 July 2016, and it covers the state service relations of the state officials and state administrators of the Budapest and county government offices. Pursuant to Section 3 of the State Officials Act, the rules included in the Public Service Officials Act and in the implementing regulations adopted pursuant to the powers conferred by the Public Service Officials Act shall apply to state service relations subject to the derogations included in the State Officials Act and in the implementing regulations adopted pursuant to the powers conferred by the State Officials Act.

B. Rules applicable to the professional members of the armed forces

In the reporting period, Act XLIII of 1996 on the service relations of the professional members of the armed forces was replaced by Act XLII of 2015 on the service

relations of the members of law enforcement bodies (hereinafter referred to as new Armed Forces Act), as from 1 July 2015. The new legislation resulted in fundamental changes first of all in the salary system and in the career system, by introducing career-based regulations. From the aspect of the Charter, one of the most important characteristics of the new salary system is that by replacing the former complicated system of supplements, it makes it possible to pay exclusively the supplements defined in the act, instead of the nearly 30 supplements paid before.

- **Working time and rest period**

In the new Armed Forces Act the rules relating to working time and rest periods are regulated in a separate chapter (Chapter XII), and they slightly derogate from the earlier rules. The provisions of the Act relating to service organisation take account of the prescriptions of Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time, and ensure consistency with the provisions of the Directive in such a way that they result in arrangements ensuring the most flexible options and the highest ceilings allowed by the Directive. In order to support enforcement work, the Act also defines the concept of the standby job service schedule.

Pursuant to the provisions of the new Armed Forces Act relating to weekly service time, the general weekly service time is 40 hours. A longer service time not exceeding 48 hours a week can be determined with regard to employees having a fully or partly standby job service schedule. The working time can be determined within a weekly or monthly framework, but even in these cases the weekly service time presented above shall be taken into consideration [Section 134(1)-(2) of the new Armed Forces Act]. On the date of switching to winter time, the scheduled weekly service time of members of the professional staff can exceed the time determined above by maximum 1 hour, if the date of switching over to winter time falls on their scheduled service time [Section 135(4) of the new Armed Forces Act].

Besides these rules, members of the professional staff can still do part-time service. In this case the weekly service time can be 20 hours a week, or – as a novel feature of the regulations valid from July 2015, offering more options for the given members – 30 hours a week; or in the case of a standby job service schedule it can be half of the service time determined when appointing the given member. Part-time service employment can be initiated by members of the professional staff returning to work from unpaid child-care leave, and part-time service can be requested until the child reaches three years of age; in the case of parents with three or more children it can be used until the child reaches five years of age [Section 138 of the new Armed Forces Act].

Rules relating to service time schedule:

- it can also be scheduled for working days unevenly. However, even in the latter case service time cannot be under four hours a day, or – except for service schedules for performing continuous on-call duty service, or guarding or stand-by job service schedules – under twelve hours, or in the case of highly dangerous service, it cannot be under six hours;
- a further exception from the twelve-hour rule: in the case of persons employed within a monthly service time frame or a service time frame of several months,

if the service is ordered daily by assigning two persons, one after the other at the same place, the service time of twelve hours a day can be extended by a maximum of thirty minutes to ensure time for briefing, change, collecting and returning service equipment,

- on the date of switching to winter time, the scheduled daily service time of members of the professional staff can exceed the time determined above by maximum 1 hour, if the date of switching over to winter time falls on their scheduled service time.

Information about the service time schedule – except for ordering overtime service – shall be provided at least one week before starting service. A new element is that the Minister is authorised by the Act to determine the service time schedules and their frameworks applicable at certain law enforcement bodies; so far this regulation was included only in standards at a lower level. The Act determines numerous guarantee arrangements regarding the service time schedule. These include prescriptions relating to prohibiting the assignment of pregnant and breastfeeding women for night service and the assignment of single mothers for twenty-four hour service, and granting periods of rest at the work place and weekly rest days.

Section 134(1)-(2) of the new Armed Forces Act relating to service time:
"(1) The service time is forty hours a week (hereinafter referred to as general weekly service time). In respect of fully or partly standby job service schedules (hereinafter referred to as standby job service schedule) a longer service time not exceeding 48 hours a week can be determined.
(2) The service time – taking into account weekly service time – can be determined in a time frame of several weeks, but maximum four months or sixteen weeks. In the case of service schedules for continuous on-call duty service, or stand-by job service schedules, the service time can also be determined taking into account the weekly service time, within a time frame of maximum six months."

According to Section 138(1) of the new Armed Forces Act relating to part-time service:
"(1) At the request of members of the professional staff employed within the service schedule determined in Section 134(1), in the instrument of appointment the exerciser of the employer's right shall allow part-time service
a) of twenty or thirty hours a week,
b) equivalent to at least half of the service time determined in the instrument of appointment, in the case of standby job service schedule,
if at the time of submitting the request the member of the professional staff is on unpaid leave determined in Section 150(1)a), and his/her original service schedule – due to the nature of the service schedule – can also be performed in the framework of part-time service."

- **Overtime service**

According to Section 139 of the new Armed Forces Act, the predictable or unpredictable circumstances inherent in professional service – in particular, the prevention, elimination or relief of mass casualty incidents, acts of God, disasters or

severe damage, or the occurrence of other unpredictable circumstances endangering public safety and the safety of property – require or may require the performance of extraordinary service (overtime service). This can take place beyond the daily service time, on public holidays and rest days. The Act determines the maximum duration of overtime service. Derogations from this are allowed only if overtime service takes place in an extraordinary case. For guarantee reasons, overtime can be ordered in writing, and it must be recorded. The Act modified the rules relating to compensation due for overtime service. According to Section 350(4) of the Armed Forces Act, members of the professional staff are due either time off or remuneration, as they choose. For overtime service they are entitled to time off or to remuneration due for the given duration of the overtime service performed, and if overtime service was performed on a weekly rest day or on a public holiday, they are due twice the amount of the time off or the remuneration that would be otherwise due for the given duration of the overtime service performed. Absentee pay is due for overtime service as remuneration, which shall be paid in the second month following the month in question, at the latest. An exception to this rule entered into force on 1 January 2016, according to which in the case of civil national security services, in the interests of the service the commander in charge may decide that in the case of certain service assignments the overtime service performed can only be compensated for by remuneration only or by time off only. The reason for this amendment was that national security interests may make it justifiable for the employer to decide on the method of compensation, in the interest of ensuring service assignment.

According to the rules relating to granting time off due as compensation, time off must be granted within thirty days, as far as possible, but there is also a possibility to grant time off within six months. Time off due as compensation can also be granted after a period of six months, but it must be granted in the first half of the following year at the latest, and this provision can be applied only if overtime service was performed within the monthly or yearly service time frame. The Minister determines the rules for ordering and accounting for overtime service and for granting time off.

According to Section 139(1)-(2) of the new Armed Forces Act relating to service time:
“(1) If required by service interests or extraordinary events – in particular, the prevention, elimination or relief of mass casualty incidents, acts of God, disasters or severe damage, or the occurrence of other unpredictable circumstances endangering public safety and the safety of property – members of the professional staff may be obliged to perform service beyond the service time determined in Section 134 or on public holidays and rest days (hereinafter referred to as overtime service).
(2) The maximum duration of overtime service ordered in the interests of the service shall be determined in such a way that the joint duration of the weekly service time and the overtime service may not exceed the weekly duration determined in Article 6 b) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, and in the case of applying working time banking described in Section 134(2) it may not exceed the weekly duration determined in the Directive, considering the average of four months.

- **Standby duty**

On the basis of the standby duty obligation determined in Section 141 of the new Armed Forces Act, members of the professional staff may be obliged to be available beyond service time, in the interests of the service, in a condition suitable for performing service, at an accessible place from where they can be ordered to perform service at any time.

The new Armed Forces Act introduced an upper limit, according to which the monthly duration may not exceed 260 hours.

According to Section 141(1)-(2) of the new Armed Forces Act relating to standby duty:
"(1) The superior on duty may oblige members of the professional staff to be available beyond service time, in the interests of the service, in a condition suitable for performing service, at an accessible place – other than the place of service – from where they can be ordered to perform service at any time.
(2) The monthly duration of standby duty – taking into consideration a monthly average in the case of applying a service time frame of several months – may not exceed two hundred and sixty hours."

Pursuant to Section 94(1) of Act CCV of 2012 on the legal status of private soldiers (hereinafter referred to as Private Soldiers Act), the exerciser of the employer's rights determines the service time schedule, in the course of which it shall consider service performance ensuring the undisturbed operation of the Defence Forces, the nature of the basic task of the Defence Forces, the nature of the service tasks determined in the job description, including, in particular, the required physical or mental effort or increased attention, the possibility of resting and ensuring resting, and the requirement of healthy and safe service performance.

The exerciser of the employer's rights determines in the job description whether the service should be performed within the framework of

a) the general service regime,
b) the service regime linked to standby job schedule, or
c) the service regime linked to a schedule for performing continuous on-call duty.

Members of the staff perform service in the framework the general service regime, if the service time in the service schedule – taking into consideration the average service time, if a service time frame is applied – is forty hours a week.

The exerciser of the employer's rights determines a service regime linked to standby job schedule, if the members of the staff, due to the nature of their service tasks, are at the disposal of the Defence Forces during at least one-third of their regular service time – taking into consideration a longer period – without performing service involving physical or mental efforts or requiring increased attention, or service performance – especially with regard to the specific nature of the job and the conditions of performing service – requires significantly lower efforts from the members of the staff than in general.

The exerciser of the employer's rights determines a service regime linked to a schedule for performing continuous on-call duty, if

1. uninterrupted operation is required for performing the basic tasks of the Defence Forces,
2. the service task of the members of the staff determined in the job description is directly linked to Point 1, and
3. during at least two-thirds of the service time physical or mental efforts or increased attention is required for performing the service.

The duration of the daily service time – with the exception of standby job schedules or schedules for performing continuous on-call duty – cannot be below four hours or above twelve hours. [Section 96(1) of the Private Soldiers Act]

Female members of the staff may not be scheduled for night shift from the time their pregnancy is diagnosed until their child reaches one year of age. Service taking place between 10:00 p.m. and 6:00 a.m. shall be regarded as night shift. [Section 96(5) of the Private Soldiers Act]

Decree 7/2015. (VI. 22.) of the Ministry of Defence on private soldiers' salary and salary-related allowances determines eligibility rules relating to the disbursement of salary supplements on top of the basic salary, including hazard supplements, increased demand supplements and additional remunerations.

2) KEY DATA AND STATISTICS

The number of working hours completed among enterprises with at least five employees, budgetary institutions and non-profit organisations, 2013-2016

Year	Average number of working hours completed per month	Working hours completed by full-time employees (1,000 hours)			Working hours per person completed monthly by full-time manual and clerical staff (hours/person)		
	hours/person /month	manual	clerical	total	manual	clerical	total
2013	143.8	2,258,654	2,055,780	4,314,434	151.3	148.5	149.9
2014	144.6	2,435,552	2,133,403	4,568,955	151.8	148.8	150.4
2015	145.4	2,521,546	2,204,316	4,725,862	152.6	149.6	151.2
2016	146.9	2,632,424	2,297,155	4,929,580	154.2	151.1	152.7

Source: *Central Statistical Office (hereinafter referred to as CSO), Institution labour statistics data collection system*

Number of employees according to the term of their employment contracts, broken down per gender [thousand persons]

Year	Employment contracts of indefinite duration			Fixed-term employment contracts			Total number of employees
	male	female	total	male	female	total	
2013	1,605.1	1,471.2	3,076.2	206.9	170.7	377.6	3,453.8
2014	1,695.6	1,548.2	3,243.8	214.6	177.9	392.6	3,636.4
2015	1,748.4	1,572.9	3,321.4	228.7	196.9	425.6	3,747.0
2016	1,864.4	1,638.7	3,503.2	191.9	185.8	377.8	3,880.9

Source: *CSO*

Total number of employees according to part-time or full-time employment, broken down per gender [thousand persons]

Year	Part-time			Full-time			Total number of employees
	male	female	total	male	female	total	
2013	95.5	167.5	262.9	2,008.3	1,621.5	3,629.8	3,892.8
2014*	99.4	162.3	261.6	2,113.1	1,710.4	3,823.5	4,100.8
2015*	99.4	155.0	254.3	2,180.6	1,768.8	3,949.4	4,210.5
2016*	83.3	144.8	228.1	2,277.7	1,842.3	4,120.1	4,351.6

Year	Working evenings regularly			Working evenings occasionally		
	male	female	total	male	female	total
2013	301.1	192.1	493.2	512.0	309.2	821.2
2014	310.5	198.1	508.6	528.5	319.7	848.2
2015	319.8	204.5	524.3	554.1	338.3	892.4
2016	343.1	212.5	555.6	553.1	336.5	889.6

Year	Working nights regularly			Working nights occasionally		
	male	female	total	male	female	total
2013	185.6	81.8	267.4	285.0	125.6	410.6
2014	180.3	80.7	261.0	277.1	128.2	405.3
2015	176.7	80.1	256.8	296.4	130.4	426.7
2016	191.7	84.4	276.1	290.7	132.9	423.5

Year	Working Saturdays regularly			Working Saturdays occasionally		
	male	female	total	male	female	total
2013	261.0	179.2	440.2	746.7	462.2	1209.0
2014	252.6	164.8	417.4	778.4	482.9	1,261.3
2015	243.4	163.4	406.8	786.4	491.3	1,277.7
2016	265.0	175.8	440.9	806.8	491.6	1,298.5

Year	Working Sundays regularly			Working Sundays occasionally		
	male	female	total	male	female	total
2013	190.2	115.9	306.1	462.9	281.3	744.2
2014	178.4	106.6	285.1	440.2	283.1	723.3
2015	162.6	90.5	253.0	414.9	231.0	645.8
2016	175.0	96.7	271.7	441.6	270.8	712.4

Source: *CSO*

*Those participating in training programmes supplementing public employment are regarded as employees employed in compliance with EU recommendations, but

according to their employment characteristics they cannot be classed in a category. For this reason, from the 1st quarter of 2014 the number of employees shown in the table of employees broken down per part-time and full-time employment does not represent the total number of employees.

The aim of the EU-financed programme entitled “Supporting legal services provided to facilitate lawful employment” is to promote lawful employment and legal awareness by supporting the legal assistance network, which provides legal help in the areas of labour law, social insurance and taxation. Information on business and other employment topics are provided free of charge both for employers and employees. Information can also be requested in person (at 149 offices in 136 settlements) in less developed regions of Hungary, as well as on-line or by phone. Service provision is based on common rules and principles in the interest of ensuring the quality and accessibility of information. The service providers are organisations of social partners selected regionally through a call for proposals (GINOP 5.3.3-16). The budget of the programme amounts to HUF 3.5 billion. The implementation of the programme started in July 2016, and since then information has been provided to about 36,000 clients in 51,000 cases. The network provides assistance and information to about 3,000 clients every month.

3) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ESCR has concluded that the situation in Hungary is not in conformity with Article 2§1 of the Charter on the following grounds:**
  - **the working hours of employees on on-call and stand-by duty may be up to 24 hours a day;**
  - **the weekly working hours of employees on stand-by duty may be up to 72 hours.**

The 10th National Report submitted by Hungary provided a detailed description of the concepts of on-call duty and standby duty and of the provisions relating to employees doing standby job, and presented the relating rules concerning working time.

Although the two legal concepts have similar names, they are not the same. A distinction must be made between the rules relating to on-call duty and standby duty (Sections 110-112 of the Labour Code), and the provisions relating to standby job (Section 91 of the Labour Code).

While on-call duty and standby duty means that the employee is available beyond ordinary working hours, the provisions relating to standby job summarise the general rules for the work of employees performing certain activities.

According to Section 91 of the Labour Code, standby job shall mean where

a) the employee is at the employer’s disposal, due to the nature of the job, during at least one-third of the employee’s regular working time based on a longer period, or
b) in light of the characteristics of the job and of the working conditions, the work performed is significantly less demanding than commonly required for a regular job.

According to Section 92(2) of the Labour Code, based on an agreement between the

parties, the daily working time in full-time jobs may be increased to not more than twelve hours daily for employees:

a) working in stand-by jobs,
b) who are relatives of the employer or the owner (extended daily working time).

According to Section 99(3) of the Labour Code, in the case of employees employed on the basis of Section 92(2), based on an agreement between the parties, the scheduled working time of employees can be

a) maximum twenty four hours a day,
b) maximum seventy two hours a week.

Employees may terminate the agreement as from the last day of the calendar month, or from the last day of working time banking in the case of ordering working time banking, allowing a deadline of fifteen days.

In respect of Section 92(2) of the Labour Code it can be determined that the fact by itself that the employee has a standby job does not mean that pursuant to this law his/her daily working time is twelve hours a day. This rule is an enabling rule, which means that the parties must agree in this duration in the employment contract. Consequently, only for the purposes of Section 92(2) of the Labour Code it is not absolutely necessary to increase the daily working time to 12 hours either on the basis of point a) or point b); with regard to the circumstances the daily working time can be determined between 8 hours and 12 hours. This agreement relates to the duration of the working time.

Section 99(3) of the Labour Code applies to employees working extended daily working hours that can be determined in respect of standby jobs (and for the relatives of the employer or the owner). According to this, a written agreement between the parties is an essential condition for a working time schedule of over 12 hours a day. Derogations from the maximum 48-hour duration of the general weekly working time are allowed based on an agreement between the parties, and the longest weekly working time determined can be 72 hours. This agreement relates to the working time schedule.

According to Section 99(3) of the Labour Code, a written agreement between the parties is required for the employer to order a working time schedule other than the general schedule. Regarding the relationship between the two provisions it means that the agreement concerning extended daily working time as determined in Section 92(2) of the Labour Code obviously fulfils its purpose, if a flexible working time schedule is made possible in connection with it, on the basis of Section 99(3) of the Labour Code.

The law allows the determination of extended daily working time for employees employed in standby jobs with a working schedule other than general, because of the specific and less demanding nature of the activity other than in general, while at the same time it determines guarantee arrangements with regard to those employed in such working schedule to ensure daily rest periods bringing adequate recovery. This is one of the reasons why the concept of the periods of compensatory rest has been introduced in Hungarian labour law (the amendment is contained in Section 124 of Act LXVII of 2016 on establishing the central budget of Hungary for 2017) as described above in detail.

We find that the guarantee arrangements relating to adequate daily rest periods are appropriately established in the Labour Code with regard to all employees.

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:
2. to provide for public holidays with pay;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period the following legislative amendments were made concerning the rules relating to the number paid public holidays:

Sections 101–102 of the Labour Code provide for the rules relating to scheduled working time on Sundays or public holidays. In connection with scheduled working time on Sundays, Section 130 of Act LXVII of 2016 on establishing the central budget of Hungary for 2017 repealed Section 101(3) in order to eliminate the enforcement problems occurring in practice, as it is not justified to regulate employment in a standby job as an exception in connection with employment in regular working hours on Sundays.

B. Rules applicable to public service officials

The rules relating to paid break-time did not change in the reporting period. Pursuant to Section 94(1) of the Public Service Officials Act, if the daily working time exceeds six hours a day, public service officials must be ensured a break-time of 30 minutes a day during working hours – by interrupting work –, and after every further three hours of work they must be ensured at least twenty minutes of break-time. Pursuant to Section 94(2) of the Public Service Officials Act, working time other than determined in the working time schedule must also be regarded as part of the daily working time from the aspect of granting break-time. For the purposes of the Public Service Officials Act, break-time is part of the working time, i.e. public service officials are entitled to remuneration for the duration of break-time too.

Apart from the days regarded as public holidays in the Labour Code, during the reference period 1 July, the Day of Public Service Officials was also recognised to be a public holiday in Section 93(2) of the Public Service Officials Act.

On the basis of Subsections (2) and (6) of Section 98 of the Public Service Officials Act, differentiated rules apply to compensation due for work on public holidays, depending on whether the work is performed in regular working hours or overtime. On the basis of this, public service officials obliged to work on public holidays during regular working hours are due twice as much time off as the time spent at work, while public service officials obliged to work overtime are due three times as much time off as the time spent at work.

The Public Service Officials Act does not determine any additional compensation – on top of the remunerations due anyway – for work performed on Sundays in regular working hours, but on the basis of Section 98(6) of the Public Service Officials Act, for work performed on public holidays in regular working hours government officials are due time off equivalent to twice the amount of the time spent at work.

C. Rules applicable to professional members of the armed forces

Chapter XII of the new Armed Forces Act contains the following rules relating to paid working time:

"Section 137(1) The public holidays determined in Act I of 2012 on the Labour Code (hereinafter referred to as Labour Code) and the holidays of certain law enforcement bodies shall be regarded as public holidays:

a) 24 April, Saint George's Day is the holiday of the police and the Parliament Guard,

b) 4 May, Saint Florian's Day is the holiday of the disaster management forces,

c) 8 September, Saint Adrian's Day is the holiday of the prison authority,

d) 1 March, the day when national security services were established, is the holiday of civil national security services.

(2) For service performed on public holidays or on Easter Sunday or Whit Sunday, on top of the remuneration due for work, members of the professional staff shall also be entitled to absentee pay.

(3) The decree issued annually by the Minister in charge of employment policy regulating the modification of the work schedule of employees working in standard working arrangements also applies to the members of the professional staff in the case of certain service schedules determined in the Ministerial Decree."

In this context a novel feature of the new Armed Forces Act is that it lays down that the decree issued annually by the Minister in charge of employment policy regulating the modification of the work schedule – due to public holidays – of employees working in standard working arrangements must also be applied in respect of the professional staff, in the case of certain service schedules determined in the Ministerial Decree (in practice this provision was applied earlier too).

According to Section 14 of Decree 27/2008. (XII. 31.) of the Ministry of Defence on certain issues concerning the public servant employment relationship of those employed in the defence sector:

"(1) In the case of work ordered because of increased standby duty of a duration not exceeding twenty four hours, public servants shall be entitled to their regular salary (salary plus salary supplements) and an increased standby duty supplement of seventy five percent for the first two hours of the time exceeding the regular daily working hours, and one hundred percent for any additional time.

(2) For increased standby duty of a duration exceeding twenty four hours, and for the duty of public servants participating in different military exercises on top of their regular daily working hours,

a) cost-free benefits in kind (food, accommodation), and

b) a daily flat-rate salary supplement (hereinafter referred to as exercise supplement) as determined in Section 44/A(3a) of Act XXXIII of 1992 on the legal status of public servants, and

c) in the case of duty performed on weekly rest days or on public holidays – on top of what is included in points a)-b) – a further rest day (rest period) shall be due, which shall be granted before the end of the month when the duty is performed.

(3) The daily amount of the exercise supplement shall be ten-twenty percent of the supplement base. The jobs eligible for supplement, the conditions of eligibility and

the amount of the supplement shall be determined in the collective agreement, or by the employer if there is no collective agreement, in a differentiated manner, taking into consideration the time spent by the public servant at the exercise, and the working conditions."

According to Section 11(1) of Decree 27/2008. (XII. 31.) of the Ministry of Defence, in the case of increased standby duty, outstanding tasks, especially military exercises, military shows, tasks related to disaster management, recruitment events, health and technical support, the fulfilment of obligations deriving from international contracts, the head of the Defence Forces may order public servants to perform on-call duty at their workplace or on the site, without preliminary notification.

According to Section 11(2), the collective agreement or – if there is no collective agreement – the employer provides for the manner of ordering overtime work and certifying performance of such work, and for the persons entitled to order such work.
Between finishing daily service and starting service on the following day members of the staff must be ensured at least 11 hours of continuous rest period in the case of standard service arrangements, and at least 8 hours of continuous rest period in the case of standby job schedules and schedules for performing continuous on-call duty service. [Section 101(1) of the Private Soldiers Act]

2) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests information on the remuneration for work on Sundays and on public holidays.**

Besides the rules relating to work scheduled for Sundays and public holidays, the Labour Code explicitly provides for the compensation due for such scheduled work, and wage supplements.

"Section 140(1) of the Labour Code: Employees required to work on Sundays shall be entitled to a fifty per cent wage supplement (Sunday supplement),
a) if they can be obliged to perform work in regular working time exclusively on the basis of the conditions determined in Section 101(1)d), e) or i), and
b) for overtime work
ba) in the case of employees determined in point a),
bb) if the employees cannot be obliged to perform work in regular working time on the basis of the conditions determined in Section 101(1).
(2) Employees required to work on public holidays shall be entitled to a one hundred per cent wage supplement.
(3) The wage supplement under Subsection (2) shall be paid for working on Easter Sunday or on Whit Sunday, or on public holidays falling on Sundays."

Eligibility for the Sunday supplement is subject to the employee performing work on Sunday basically for reasons of working arrangements. Employees who perform work on Sunday for objective reasons (e.g. they are employed by an employer who – in terms of function – operates on Sundays too) are not entitled to a supplement. Furthermore, according to the Labour Code, employees are due Sunday supplement both in the case of working regular working hours and overtime.

The compensation due for work performed on public holidays – instead of the absentee pay and additional supplement determined in the former Labour Code– is the wage supplement determined in Section 140(2). The amount of this is 100%, which is due to employees, whose wages are determined on a time or performance basis, on top of their ordinary wages and the absentee pay.

On answering the question raised by the ECSR, employees are entitled to the wage supplement determined in Section 140(2) for work performed on public holidays, disregarding whether this day falls on a Sunday or on any other day of the week. In the case of overtime work, employees are entitled to further wage supplement with regard to extended working time beyond their regular daily working time, if applicable. The law permits work performed on public holidays in a particularly restricted manner, and in such cases all employees are entitled to wage supplement as determined by law.

In respect of employees working in public administration, the Public Service Officials Act contains provisions regarding the day of public service officials and government officials (1 July). The provisions of the new Armed Forces Act cited above apply to the members of law enforcement bodies in respect of public holidays.

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

3. to provide for a minimum of four weeks' annual holiday with pay;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period the following legislative amendments were made concerning the rules relating to paid annual leave:

With effect from 1 January 2012, Article XVII Paragraph (4) of the Fundamental Law of Hungary determines that every employee has the right to daily and weekly rest periods and to an annual period of paid leave.

The relevant provisions of the Labour Code concerning entitlement to leave entered into force on 1 January 2013.

According to Section 115 of the Labour Code, employees are entitled to leave in every calendar year based on the time spent at work, comprising vested leave and extra leave.

Furthermore, according to the law, time spent at work includes any duration of exemption from work as scheduled, leave, maternity leave, the first six months of unpaid leave taken to care for a child, the duration of incapacity, any duration of unpaid leave taken up to three months for the purpose of actual reserve military service.

Furthermore, time spent at work also includes the cases of exemption from work specified by law, including, in particular, the following cases determined in Section 55(1) of the Labour Code:

a) receiving treatment in a healthcare institution related to a human reproduction procedure, as specified in the relevant legislation, and
b) for the duration of mandatory medical examination, furthermore
c) for the length of time required for donating blood, for a period of at least four hours,
d) in the case of nursing mothers, for one hour twice daily, or two hours twice daily in the case of twins during the first six months of breastfeeding, and thereafter for one hour daily, or two hours daily in the case of twins until the end of the ninth month,
e) for two working days upon the death of a relative,
f) for the duration of classes in the case of employees pursuing elementary school studies, for the duration of training if participating a training course or a further training course by agreement of the parties,
g) for the duration of being engaged in firefighting operations in a voluntary or industrial fire brigade,
h) when called upon by the court or an authority, or for the duration of participating in proceedings in person,

i) for any duration of absence due to personal or family reasons, or as justified by unavoidable external reasons, furthermore
j) for any duration specified by regulations concerning employment relations.

According to Section 116 of the Labour Code, the amount of vested leave shall be 20 working days. Employees are entitled to extra leave under independent legal titles. Extra leaves due under different legal titles shall be added up without limitations.

Extra leave is determined for employees based on their age, and longer leave is due for the first time in the year when the employee reaches the age determined in the law:

"Section 117(1) of the Labour Code: Employees shall be entitled to extra leave as follows:
a) one working day over the age of twenty-five,
b) two working days over the age of twenty-eight,
c) three working days over the age of thirty-one,
d) four working days over the age of thirty-three,
e) five working days over the age of thirty-five,
f) six working days over the age of thirty-seven,
g) seven working days over the age of thirty-nine,
h) eight working days over the age of forty-one,
i) nine working days over the age of forty-three,
j) ten working days over the age of forty-five."

Employees are also entitled to extra leave for their children, and fathers are entitled to extra leave in the year when their child is born. [Section 118 Subsection (1) and (4) of the Labour Code]

"Section 118(1) of the Labour Code: Employees shall be entitled to extra leave as follows:
a) two working days for one child,
b) four working days for two children,
c) a total of seven working days for more than two children
under sixteen years of age.
(2) The extra leave referred to in Subsection (1) shall be increased for children with disabilities by two working days per child.
(3) For the purposes of entitlement to extra leave, a child shall first be taken into consideration in the year when born and for the last time in the year in which he/she reaches the age of sixteen.
(4) Upon the birth of his child, a father shall be entitled to five days of extra leave, or seven working days in the case of twins, until the end of the second month from the date of birth, which shall be allocated on the days requested by the father. Such leave shall be provided also if the child is stillborn or dies."

Young employees – i.e. below the age of 18 – shall be entitled to 5 extra days of leave each year. The last time such benefit applies shall be the year when the young employee reaches 18 years of age. [Section 119(1) of the Labour Code]

Employees

a) permanently working underground, or
b) spending at least three hours a day on a job exposed to ionizing radiation

shall be entitled to five extra days of leave each year. [Section 119(2) of the Labour Code]

Employees who

a) have suffered a degree of health impairment of at least fifty per cent as diagnosed by the body of rehabilitation experts,
b) are entitled to disability support, or
c) are entitled to blind persons' allowance

are due five days of extra leave a year. (Section 120 of the Labour Code)

In respect of allocating leave beyond the year when it is due, the Labour Code provides that leave must be allocated during the year when it is due. Pursuant to the Labour Code, leave can be allocated beyond the year when it is due only within the following narrow scope:

a) If the period of leave starts in the year when it is due, a maximum of 5 working days can be allocated in the year following the year when the leave is due, without interrupting the leave. [Section 123(4) of the Labour Code]

b) Leave can be allocated by 31 March of the following year,
   - if the employment relationship commenced on the 1 October or subsequently [Section 123(2) of the Labour Code],
   - in respect of one-fourth of the leave, if so stipulated in the collective agreement in the event of the employer's economic interests of particular importance or any direct and consequential reason arising in connection with its operations. [Section 123(5)c) of the Labour Code]

c) By agreement between the employer and the employee, the employer shall be entitled to allocate extra days of leave due to the employee according to his/her age, by 31 December of the year following the year when due. This agreement shall be concluded separately with regard to each year in question. [Section 123(6) of the Labour Code]

d) If leave could not be allocated in the year when due for reasons within the employee's control, then it shall be allocated within 60 days after the cause terminates. In this case the leave can be allocated even after the expiration of the year following the year when it is due. (Section 123 of the Labour Code)

The collective agreement may derogate from Section 123(5) of the Labour Code, and from Section 123(6) of the Labour Code, but exclusively to the benefit of the employee in the latter case. [Section 135(2) of the Labour Code]
Based on the parties' agreement, derogations from Section 123(5)-(6) of the Labour Code are allowed only to the benefit of the employee (Section 43 of the Labour Code).

Employees may not wave their entitlement to regular annual leave. Allowance in lieu of leave is not allowed, except if the employment relationship terminates. [Section 122(5) of the Labour Code]
Upon termination of the employment relationship, compensation shall be provided for any leave not previously allocated as due. (Section 125 of the Labour Code)

In Hungary regular annual leave can be taken in parts too.
Employers shall allocate seven working days of the vested leave in a given year in not more than two parts, at the time requested by the employees, with the exception of the first three months of the employment relationship. [Section 122(2) of the Labour Code]

Unless otherwise agreed, leave shall be allocated to contain at least fourteen consecutive days at a time during each calendar year, when the employee is exempted from the obligation of work and being available [Section 122(3) of the Labour Code]. Pursuant to the law, weekly rest days (weekly rest periods), public holidays and leave days allocated according to an irregular work schedule shall also count towards this exemption period of fourteen consecutive days.

The law allows derogations from the obligation to allocate a minimum of fourteen consecutive days. Such derogations may be determined in an agreement between the parties, or in the collective agreement.

Derogations determined in the agreement between the parties may be to the benefit or to the detriment of the employee (Section 135 of the Labour Code). Derogations from the legislative provision relating to the allocation of a minimum of fourteen consecutive days is subject to the parties' agreement.

Derogations determined in the collective agreement may be only to the employee's benefit. [Section 135(2) of the Labour Code]

B. Rules applicable to public service officials

Pursuant to Section 101(1) of the Public Service Officials Act, the amount of vested leave is 25 working days. Section 101(2) of the Public Service Officials Act leaves the amount of extra leave due to public service officials unchanged in the case of having higher education qualifications (3-11 working days), secondary baccalaureate qualifications (5-10 working days), and in the case of public service officials in management position (11-13 working days), suiting the rating of public service officials. Pursuant to Section 252 of the Public Service Officials Act, a notary, a vice notary and a chief notary is entitled to 11, 12 and 13 extra days of leave, respectively. Section 102 of the Public Service Officials Act regulates extra leave due for children to both parents, disregarding which one of them undertakes a greater role in bringing up their child(ren).

Pursuant to Section 23 of the State Officials Act, state officials are entitled to 25 days of vested leave. On top of this, depending on rating, they are entitled to extra leave (5-13 days in the case of those who work at the general administrative department, and at the priority administrative department), and instead of this state officials in executive position are entitled to extra executive leave (11-13 days).

Pursuant to Section 102(5) of the Public Service Officials Act, the rule relating to allocating an extra leave of 5 working days per year to employees diagnosed with any type of health impairment of at least fifty per cent was supplemented as from 1 January 2014, and now it also covers state officials entitled to disability support and state officials entitled to blind persons' allowance.

Section 108 of the Public Service Officials Act regulates the administrative break, and authorises the Government to determine the implementing rules relating to administrative leave in a decree. Sections 13-15 of Government Decree 30/2012. (III. 7.) on public service officials' working time and rest periods, the administrative break, certain obligations borne by public service officials and employers, and teleworking contain the implementing rules relating to the administrative break. The administrative break means 5 consecutive calendar weeks in the summer of each year, and 2 consecutive weeks in the winter of each year. During the period of the administrative break all leave not allocated in the year when due (accumulated in previous years) can be allocated.

In respect of allocating leave, the Public Service Officials Act maintains special rules applicable only to public administration, such as the leave roaster, and the allocation of leave in a manner other than determined in the leave roaster. Pursuant to Section 103(1) of the Public Service Officials Act, the exerciser of the employer's rights shall prepare the leave roaster, after assessing the demands of state officials. According to Section 103(4) of the Public Service Officials Act, at the state official's request two-fifth of the vested leave (10 days) shall be allocated as requested by the state official, other than determined in the leave roaster, and requests relating to this shall be submitted fifteen days before the start of the leave, at the latest.

Pursuant to Section 104(1) of the Public Service Officials Act, leave shall be allocated in the year when it is due. The exerciser of the employer's rights shall allocate leave before 31 January of the year following the year in question subject to service interests, before 31 March at the latest in the case of exceptionally important service interests, and, in the case that the state official is ill or is affected by an insurmountable obstacle, within thirty days following termination of such obstacle, if the year when the leave was due expired. Service interests shall mean especially cases when, for example, because of the allocation of the leave the continuous operation of the basic tasks of the organisation cannot be ensured (e.g. An accident, act of God, severe damage), or extraordinary tasks that cannot be planned in advance cannot be performed within the deadline.

C. Rules applicable to the professional members of the armed forces

The provisions included in Chapter XII of the new Armed Forces Act referred to above determine the legal titles under which members of the professional staff are entitled to leave:

- vested leave,
- extra leave,
- medical leave,
- maternity leave,
- unpaid leave.

- **Vested leave**

The law determines that members of the professional staff are entitled to twenty five working days of vested leave and three to ten working days of extra leave – except for the extra executive leave due to those in executive positions – depending on the length of their service relationship. Employees in executive positions are entitled to eleven to fifteen working days of extra leave, depending on the executive rating category. The regulation provides additional extra leave supplementing the vested leave or on top of the extra executive leave, for those performing service tasks involving increased risks, and due for children below the age of sixteen, and, in law enforcement, for those employed at the security department. Furthermore, it defines the most important concepts linked to extra leave due for children, in line with the provisions included in the Labour Code and the Public Service Officials Act (Section 144 of the new Armed Forces Act). Absentee pay is due for the period of vested and extra leave and maternity leave.

The main provisions of the new Armed Forces Act relating to vested and extra leave are the following:

"Section 142(2) Absentee pay is due for the period of vested and extra leave and maternity leave.

77. Vested and extra leave

"Section 143(1) Members of the professional staff shall be entitled to twenty five working days of vested leave.
(2) Members of the professional staff shall be entitled to extra leave every year:
a) three working days after two years of service relationship,
b) four working days after three-five years of service relationship,
c) five working days after six-ten years of service relationship,
d) six working days after eleven-fifteen years of service relationship,
e) seven working days after sixteen-twenty years of service relationship,
f) eight working days after twenty one – twenty five years of service relationship,
g) nine working days after twenty six – thirty years of service relationship,
h) ten working days after thirty one or more years of service relationship.
(3) In the case of extra leave determined in Subsection (2), the next grade of the extra leave shall be due for the first time in the year when the service relationship of the member of the professional staff reaches the length determined in Subsection (2). The professional service time shall be taken into consideration from the aspect of the amount of extra leave.
(4) Instead of the extra leave determined in Subsection (2), those in executive positions shall be entitled to extra executive leave. Employees entitled to extra executive leave, and the amount of extra executive leave:
a) sub-managers: eleven working days,
b) middle managers: twelve working days,
c) managers of regional bodies: thirteen working days,
d) deputy managers of central bodies: fourteen working days,
e) managers of central bodies: fifteen working days."

(5) On top of the extra leave determined in Subsection (2) or (4), the professional members of prison authorities shall be entitled to five working days of extra leave per year, if they perform their service task at the security department defined in the Act on enforcing punishments, measures, certain coercive measures and imprisonment for administrative offences.

Section 144(1) Members of the professional staff shall be entitled to extra leave of

a) two working days per year for one child,

b) four working days per year for two children,

c) a total of seven working days per year for more than two children

under sixteen years of age.

(2) The extra leave referred to in Subsection (1) shall be increased for children with disabilities by two working days per child.

(3) For the purposes of entitlement to extra leave, children shall first be taken into consideration in the year when they are born and for the last time in the year in which they reach the age of sixteen.

(4) For the purposes of this Section

a) 'child' shall mean any child raised or cared for in one's own household according to the legislation on the support of families,

b) 'child with disabilities' shall mean any child for whom a higher amount of child benefit was determined in accordance with the act on the support of families,

c) 'parent' shall mean:

ca) the biological and the adoptive parent, and the spouse living with the parent,

cb) any person who has filed for the adoption of the child who is living in the same household, and the relevant procedure is already in progress,

cc) the guardian,

cd) the foster parent and surrogate parent.

Section 145(1) Upon the birth of his child, a father shall be entitled to five days of extra leave, or seven working days in the case of twins, which shall be allocated before the end of the second month from the date of birth, on the days requested by the father. Such leave shall also be provided, if the child is stillborn or dies. Absentee pay shall be due for the period of extra leave.

(2) In application of Subsection (1), 'father' shall mean the biological or adoptive father who has legal custody of the child concerned.

Section 146(1) On top of the extra leave determined in Section 143, members of the professional staff shall be entitled to fourteen days of extra leave for recreational purposes – to prevent health impairment due to continuous and increased physical and psychological stress and to remain fit –, if they serve

a) in a highly dangerous position, in facilities exposed to high-frequency and ionizing radiation, toxic substances or the risk of infection because of the presence of biological agents, or in underground facilities, under artificial climate conditions,

b) as pilots flying an airplane or helicopter, on-board attendants, bomb-disposal experts or divers exposed to direct threat to life, or in a position for performing counter-terrorism activities determined by the Minister.

(2) Members of the professional staff serving abroad for at least thirty days under conditions generally representing a direct threat to life or physical integrity – in particular, on geographical areas struck by acts of war or armed conflicts – shall be entitled to extra leave for recreational purposes as determined in Subsection (1), within three months following the end of their service.

- **Medical leave**

The law provides for medical leave to be granted to members of the professional staff, if as a result of a disease, surgical operation or injury due to an accident they are unable to perform service, or the continuation of performing service would result in the deterioration of their health, or if resting and convalescence is required for restoring their ability to perform service, during the period of the restoration of their ability to perform service. This period, however, with the exception of medical leave taken for the purpose of breastfeeding and child raising, may not exceed twelve months. According to general regulations, absentee pay is due for the period of medical leave, if it is taken because of an accident or injury linked to service obligations, or a disease originating from service performance. If medical leave is justified by other than an accident or injury linked to service obligations, or a disease originating from service performance, during the period of the medical leave absentee pay shall be disbursed for thirty calendar days, and then 90% of the absentee pay shall be paid from the thirty first calendar day.

The new Armed Forces Act also contains provisions relating to medical leave due to members of the professional staff for the purpose of child care.

The main provisions of the new Armed Forces Act relating to medical leave are the following:

Section 147(1) Medical leave shall be granted to members of the professional staff, if as a result of a disease, surgical operation or injury due to an accident they are unable to perform service, or the continuation of performing service would result in the deterioration of their health, or if resting and convalescence is required for restoring their ability to perform service.
(2) Medical leave shall be due until the restoration of the health status or until ultimate disability develops, but for a maximum of twelve months, with the exception of the cases included in Section 148.
(3) The rules relating to certifying incapacity and to granting medical leave shall be determined by the Minister."

- **Maternity leave**

Members of the professional staff who are pregnant women and women giving birth are entitled to maternity leave and, during breastfeeding, extra free time. The main provisions of the new Armed Forces Act relating to maternity leave are the following:

"Section 149(1) Members of the professional staff who are pregnant women and women giving birth shall be entitled to maternity leave of twenty four consecutive weeks, from which they shall be obliged to use two weeks. Maternity leave shall be allocated so as to commence four weeks prior to the expected date of birth.
(3) The period of leave shall be no less than six weeks from the date of birth."

- **Unpaid leave**

The new Armed Forces Act determines the possible cases of allocating unpaid leave to members of the professional staff. It explicitly states that no vested leave, extra leave or medical leave is due for the period of unpaid leave.

The main provisions of the new Armed Forces Act relating to unpaid leave are the following:

“Section 150(1) Members of the professional staff shall be entitled to unpaid leave at their request for the purpose of taking care of their child, from the day following the lapse of the maternity leave, in the case of male members from the birth of the child, in the case of an adopted or foster child from the officially certified starting date of adoption or foster care

a) until the child reaches three years of age, and in the case of twins until the end of the year when the twins reach compulsory school attendance age, in the case of a permanently ill or severely disabled child until the child reaches twelve years of age, and

b) during the period of disbursement of the child care allowance until the child reaches ten years of age.

(2) Unpaid leave shall be granted to the members of the professional staff

a) for providing home care and nursing for a close relative requiring permanent care or nursing for a foreseeable period of over thirty days, during the period of providing care and nursing, but for a maximum of two years, provided that they personally provide care and nursing, and

b) in the case of the permanent foreign mission of the spouse, during the period of such mission.

(3) If requested by the members of the professional staff, based on reasonable individual grounds, in particular, in the case of winning a tender announced by an international organisation, if it does not coincide with service interests, the commander in charge, exercising his discretion, may grant unpaid leave for the period of work.

Section 151(1) No vested leave, extra leave or medical leave shall be due for the period of unpaid leave.”

- **Allocation of leave, and allowance in lieu of leave**

The regulations contain common procedural rules relating to different types of leave due under different legal titles. These are mainly guarantee arrangements. Leave shall be allocated on the basis of the leave roaster. Corresponding to the intended purpose of vested and extra leave it is stipulated that half of the entire period of leave shall be granted as an uninterrupted period, and 25%, but at least ten days shall be granted at the request of the members of the professional staff, making sure that it does not endanger the operability of the law enforcement body. As a main rule, leave shall be granted in the year when it is due. Subject to service interests, leave can be granted until 31 January in the year following the year in question, or, for exceptionally important reasons, leave not allocated by the above date, it can be allocated by 31 March of the following year, or, in the case that the member of the professional staff is ill or is affected by an insurmountable obstacle, leave can be granted within 30 days following termination of such obstacle. As a main rule, allowance in lieu of leave is not allowed. Allowance in lieu of leave is only allowed in certain cases of command, or if the service relationship terminates.

The main provisions of the new Armed Forces Act relating to the allocation of leave and allowance in lieu of leave are the following:

Section 152(1) Leave due to members of the professional staff, with regard to service interests, shall be allocated on the basis of the leave roaster prepared before 28 February in the year in question, also with regard to the reasonable demands of the members of the professional staff.
(2) 50% of the period of leave shall be allocated as an uninterrupted period, and 25%, but at least ten days shall be granted as requested by the members of the professional staff, making sure that it does not endanger the operability of the law enforcement body. The law enforcement body shall notify the members of the professional staff about the starting day of the leave determined by it, thirty days in advance.
(3) As a main rule, leave shall be granted in the year when it is due. Leave shall be allocated before 31 January of the year following the year in question subject to service interests, before 31 March at the latest in the case of exceptionally important service interests, and, in the case that the member of the professional staff is ill or is affected by an insurmountable obstacle, within thirty days following termination of such obstacle."

Members of the military staff covered by the new Armed Forces Act are due 25 working days of leave per year. On top of the vested leave, members of the staff are entitled to extra leave, which depends on the length of their service relationship. Between finishing daily service and starting service on the following day, members of the staff must be ensured at least 11 hours of continuous rest period in the case of standard service arrangements, and at least 8 hours of continuous rest period in the case of standby job schedules and schedules for performing continuous on-call duty service. [Section 96(1)-(2) of the Private Soldiers Act]

Members of the staff shall be granted extra leave of
a) 2 working days for one child,
b) 4 working days for two children,
c) a total of 7 working days for more than two children
under sixteen years of age. [Section 109(5) of the Private Soldiers Act]

Leave shall be granted by the exerciser of the employer's rights or a person designated by it. 50% of the joint period of vested and extra leave shall be allocated as an uninterrupted period, and 25%, but at least ten days shall be granted as requested by the members of the staff, making sure that it does not endanger the operability of the Defence Forces. Members of the staff shall be notified about the starting day of the leave determined by the exerciser of the employer's rights 15 days before the starting day of the leave at the latest. [Section 112(1) of the Private Soldiers Act]
Allowance in lieu of leave is not allowed. [Section 113(1) of the Private Soldiers Act]

2) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR has concluded that the situation in Hungary is not in conformity with Article 2§3 of the Charter on the ground that it has not been established that the workers' right**

to take at least two weeks uninterrupted holidays during the year the holidays were due is sufficiently guaranteed.

The provisions challenged by the ECSR are included in Act XXII of 1992 on the Labour Code, which was repealed as from 1 January 2013 by Act LXXXVI of 2012 on the transitional provisions and amendments of acts related to the promulgation of Act I of 2012 on the Labour Code (when the new Labour Code entered into force).

We find that the legal acts relating to employment relationships are in compliance with the requirement included in Article 2(3).

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period no changes took place in the Labour Code in respect of reducing the risks involved in dangerous or unhealthy occupations. In the law it is recorded as one of the fundamental obligations that employers shall employ their employees in accordance with the rules pertaining to contracts of employment and employment regulations [Section 51(1) of the Labour Code]. Employees can only be employed for work of such nature which is not considered harmful with a view to their physical condition or development [Section 51(3) of the Labour Code]. The responsibility for the implementation of occupational safety and occupational health requirements lies with the employers. The employee's fitness for the job for which the employee is being considered shall be examined free of charge before taking up work and on a regular basis during the term of the employment relationship. [Section 51(4) of the Labour Code]

B. Rules applicable to public service officials

Section 101(6)-(7) of the Public Service Officials Act provides – without changes – that public service officials permanently working underground or exposed to ionizing radiation shall be entitled to 5 extra working days of leave, while public service officials employed in jobs where they are exposed to radiation injury and to double health hazard are entitled to 10 extra working days of leave.

C. Rules applicable to the professional members of the armed forces

The new Armed Forces Act provides for extra leave to be granted to the members of prison authorities who perform their duty at the security department defined in the Act on enforcing punishments, measures, certain coercive measures and imprisonment for administrative offences (Section 143(5) of the new Armed Forces Act).

"Section 143(5) On top of the extra leave determined in Subsection (2) or (4), the members of prison authorities who perform their duty at the security department defined in the Act on enforcing punishments, measures, certain coercive measures and imprisonment for administrative offences shall be entitled to five extra working days of leave."

According to Section 146 of the new Armed Forces Act, members of the professional staff are entitled to extra leave for recreational purposes to prevent health impairment due to continuous and increased physical and psychological stress, and to remain fit. The rules relating to extra leave for recreational purposes have been taken over from the former Armed Forces Act, while a new provision is that members of the professional staff serving abroad for at least thirty days under conditions generally representing a direct threat to life or physical integrity – in particular, on geographical areas struck by acts of war or armed conflicts – shall be entitled to extra leave for recreational purposes within three months following the end of their service.

Section 146(1) On top of the extra leave determined in Section 143, members of the professional staff shall be entitled to fourteen days of extra leave for recreational purposes – to prevent health impairment due to continuous and increased physical and psychological stress, and to remain fit –, if they serve

a) in a highly dangerous position, in facilities exposed to high-frequency and ionizing radiation, toxic substances or the risk of infection because of the presence of biological agents, or in underground facilities, under artificial climate conditions,

b) as pilots flying an airplane or helicopter, on-board attendants, bomb-disposal experts or divers exposed to direct threat to life, or in a position for performing counter-terrorism activities determined by the Minister.

(2) Members of the professional staff serving abroad for at least thirty days under conditions generally representing a direct threat to life or physical integrity – in particular, on geographical areas struck by acts of war or armed conflicts – shall be entitled to extra leave for recreational purposes as determined in Subsection (1), within three months following the end of their service.

Real and regularly occurring risks due to the particular nature of performing service are also compensated for in the remuneration: when classing the service position itself in a given classification category, and when determining the so-called professional allowance forming part of the remuneration. The classification category of the service positions and the amount of the professional allowance is determined in a ministerial decree. When determining the amount of the professional allowance, the Minister shall also consider the real and regularly occurring risks – endangering life, physical integrity or health – due to the particular nature of performing service, as well as the frequency of doing armed service and situations involving the use of weapons or the possibility of using weapons.

"Section 157(1) The professional allowance shall serve to compensate for the additional obligations undertaken by members of the professional staff when taking their oath and for the extra stress and burden involved in filling their service position. The Minister shall determine its amount within the range of 50-650% of the law enforcement remuneration basis.

(2) When determining the amount of the professional allowance,

a) real and regularly occurring risks – endangering life, physical integrity or health – due to the particular nature of performing service,

b) the frequency of doing armed service and situations involving the use of weapons or the possibility of using weapons,

c) the external circumstances of service,

d) the strictness and constraints of the internal circumstances and regime rules linked to doing service, and

e) extra responsibility and higher professional requirements deriving from professional governance

shall be taken into consideration."

The supplements of a significantly reduced amount as compared to the former Armed Forces Act also ensure extra remuneration in the case of the positions indicated above. Members of the professional staff are entitled to the following wage supplements, depending on the place, time and circumstances of doing service, in accordance with the conditions determined in a ministerial decree:

Section 161(1) Members of the professional staff shall be entitled to the following wage supplements, depending on the place, time and circumstances of doing service, in accordance with the conditions determined in a ministerial decree:

a) those serving in a position exposed to high-frequency and ionizing radiation, toxic substances or the risk of infection because of the presence of biological agents shall be entitled to a wage supplement equivalent to 25% of the law enforcement remuneration basis,

b) those serving in preferred settlements shall be entitled to a wage supplement equivalent to 50% of the law enforcement remuneration basis,

c) the night shift supplement shall be 0.5% of the law enforcement remuneration basis for each hour completed, and

d) the standby supplement shall be 0.25 % of the law enforcement remuneration basis for each hour completed.

(2) The wage supplement determined in Subsection(1)a) and b) shall be due for the period of filling the service position, while the wage supplement determined in Subsection(1)c) and d) shall be due to members of the professional staff for the actual period of doing the activity recognised with the supplement.

(3) Service positions representing an entitlement to other supplements and the conditions of the payment of supplements shall be determined by the Minister in a decree.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

In accordance with Government Decision 1581/2016. (X. 25.), the Government discussed and approved of the National Occupational Safety and Health Policy (hereinafter referred to as NOSHP) The aim of the new NOSHP is to contribute effectively to the improvement of working conditions, the preservation of the employees' working capacity, increasing the number of healthy life years, and boosting Hungary's competitiveness. By adopting the new strategy, Hungary has a national policy for occupational safety and health again, which determines the priorities for national occupation safety and health for the period between 2016 and 2022, in compliance with the European Union's current occupational safety and health strategy for 2014-2020. The NOSHP sets five main tasks, within which numerous sub-points are determined too.

The tasks set in the NOSHP accepted in 2016:

1. Developing the competitiveness of enterprises

1.1. Supporting introduction of free online tools to be used to carry out occupational safety and health tasks
1.2. Encouraging the development of an effective occupational safety and health management system
1.3. Communication of good practices and promotion of adoption
1.4. Developing a concept for accident insurance within the scope of social security

2. Maintaining the working capacity of employees

2.1. Reducing absence from work as a result of psychosocial risks
2.2. Encouraging research to determine work-related musculoskeletal disorders and
2.3. work-related cancer, and promoting research results.
2.4. Encouraging and supporting the elaboration of new methods of ergonomics

3. Occupational safety and health training and education

3.1. Elaborating a mandatory further training system for occupational safety and health professionals
3.2. Expanding knowledge on safety and health and chemical safety at work in education
3.3. Reducing occupational risks affecting employees of vulnerable groups and employees working in atypical types of employment

4. Information, communication

4.1. Preparing information and publications promoting safe and healthy employment
4.2. Regular distribution of timely and professional information targeted at micro, small and medium-sized enterprises, with the involvement of the public information system of occupational safety and health
4.3. Supporting the publication of research results relating to occupational safety and health

5. Occupational safety and health research and development

5.1. Statistical data collection and development of the information base
5.2. Encouraging research on the impacts of climate change on employees
5.3. Coping with the increasing average age of employees and analysis of the impact of newly emerging risks
5.4. Establishing a database of occupational safety and health service providers
5.5. Establishing a database of occupational health service providers
5.6. Improving the professional and operational conditions of the integrated occupational safety and health authority
5.7. Developing cooperation among organisations interested in maintaining safe and healthy working conditions and lawful employment
5.8. Introduction and development of a risk-based inspection strategy
5.9. Complex evaluation of all 24 directives comprising Hungarian legislation on occupational safety and health and simplification of existing laws and regulations

(Remark: The English language version of the NOSHP is accessible at the following link:

http://ngmszakmaiteruletek.kormany.hu/download/f/01/b1000/National%20Occupational%20Safety%20and%20Health%20Policy%202016-2022.pdf)

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period the following legislative amendments were made concerning the rules relating to the weekly rest period:

The employment relationship between a school cooperative and its member is regulated under Act X of 2006 on cooperatives, in the Chapter entitled School Cooperatives, in accordance with the provisions of Act XLIX of 2016 on the amendment of certain acts concerning school cooperatives, accepted by the Hungarian Parliament on 10 May 2016. In accordance with this, Chapter XVII of the Labour Code was repealed.

B. Rules applicable to public service officials

The content of the regulations relating to weekly rest days included in Section 95(4) and Section 92(7) of the Public Service Officials Act remained the same; public service officials are entitled to two consecutive rest days per week, and one of these days must fall on a Sunday (weekly rest day). Pursuant to Section 92(7) of the Public Service Officials Act, in the case of a different work schedule organised around public holidays (working day relocation), the rule relating to two rest days per week as determined in Section 95(4) of the Public Service Officials Act is not relevant with regard to calendar weeks affected by work performed on Saturday. The rules relating to rest periods determined in certain detailed work schedules have not changed either, in the case of irregular work schedules weekly rest days can also be scheduled irregularly on the basis of Section 5(1) of Government Decree 30/2012. (III. 7.). In this case one rest day must be scheduled after six working days for public service officials, except for public service officials employed for seasonal activities. Furthermore, at least one rest day must be scheduled to fall on a Sunday. Pursuant to Section 6(1) of Government Decree 30/2012. (III. 7.), in the case of an irregular work schedule, instead of weekly rest days public service officials can also be ensured a consecutive weekly rest period of at least forty eight hours a week. At least once a month the weekly rest period must be scheduled to fall on a Sunday, except in the case of public service officials employed part time exclusively on Saturdays and Sundays. Pursuant to Section 6(3) of Government Decree 30/2012. (III. 7.), in the case of an irregular work schedule an uninterrupted weekly rest period of only forty hours – instead of forty eight hours – including one calendar day can also be ensured, provided that the employer also ensures a weekly rest

period of at least forty eight hours a week for the public service officials on the average of working time banking.

C. Rules applicable to the professional members of the armed forces

The new Armed Forces Act provides that between finishing daily service and starting service on the following day, members of the professional staff shall be ensured at least eight hours of continuous rest period, which shall not include the period of travelling from the place of residence to the place of service and back.

The new Armed Forces Act determines different rules in the case of switching to summer time or to wintertime, with regard to the maximum service period and the minimum daily rest period. According to the relating provisions of the new Armed Forces Act:

"*Section 136(3) Between finishing daily service and starting service on the following day, members of the professional staff shall be ensured at least eight hours of continuous rest period, which shall not include the period of travelling from the place of residence to the place of service and back. If the daily rest period falls on the date of switching to summer time, it shall be at least seven hours."*

Members of the professional staff are entitled to two rest days a week, which should be possibly granted consecutively. In the case of those who perform service on the basis of a service schedule for continuous on-call duty service, at least one of the rest days within the same month must fall on a Sunday. As opposed to this rule, the law also makes it possible to allocate rest days cumulatively – except in the case of highly dangerous service assignments – on a monthly basis due to service engagements.

"Section 136(4) Members of the professional staff shall be entitled to two rest days per week, which shall be possibly allocated consecutively. In the case of those who perform service on the basis of a service schedule for continuous on-call duty service, at least one of the rest days within the same month shall fall on a Sunday.
(5) As opposed to Subsection(4), rest days can also be allocated cumulatively – except in the case of highly dangerous service assignments – on a monthly basis due to service engagements.

2) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests information on whether it is possible that an employee performs work continuously for a period longer than twelve days without being granted a weekly rest period.**

Sections 105 and 106 of the Labour Code contain separate provisions concerning the weekly rest day and the weekly rest period, in respect of the scheduling of which the definition of 'working day' and 'week' as determined in the law shall be taken into consideration (Section 87 of the Labour Code).

"Section 87(1) 'Working day' shall mean a calendar day or an uninterrupted twenty-four hour period defined by the employer, if the beginning and end of the daily working time as scheduled to accommodate the employer's operations falls on different calendar days.
(2) The provisions of Subsection (1) shall also apply to determining the weekly rest periods and public holidays, where the time period between seven hours and twenty-two hours shall be regarded as a weekly rest day or public holiday.
(3) 'Week' shall mean a calendar week or an uninterrupted one hundred and sixty-eight hour period defined by the employer, if the beginning and end of the daily working time as scheduled to accommodate the employer's operations falls on different calendar days."

According to Section 87(1) of the Labour Code, working day can be determined in two different ways in respect of the work schedule: as a calendar day (a period between 0:00 a.m. and 12:00 p.m.) or an uninterrupted twenty-four hour period defined by the employer – for example in the case of a continuing work schedule (if the start and end of the working time is not on the same day); the uninterrupted period of 24 hours determined by the employer shall be regarded as a working day. In respect of weekly rest days, according to Section 87(2) of the Labour Code, the time period between seven hours and twenty-two hours shall be regarded as a weekly rest day or public holiday, and in accordance with this in the work schedule the employer must determine the rest day and the public holiday in such a way that this period should fall within these days.

According to Section 105(1) of the Labour Code, employees are entitled to two rest days per week. On the basis of Section 87(3) of the Labour Code, this week can be a calendar week or an uninterrupted period of one hundred and sixty eight hours determined by the employer. Employees are entitled to two rest days a week within this frame.

The Labour Code provides for allocating the rest day, and via indirect regulations it ensures that the rest day is allocated in kind: for this purpose it limits the period of the weekly working time and the maximum period of overtime work that can be ordered. The law does not require that the rest day should be scheduled on a Sunday, but it follows from the definition of the standard work schedule defined in Section 97(2) of the Labour Code (according to which work shall be scheduled for five days a week, between Monday through Friday) that for employees working under a standard work schedule the weekly rest day must be provided on Saturday or on Sunday.

In the case of an irregular work schedule, rest days can also be scheduled irregularly. When scheduling rest days irregularly, two rest days per week shall be provided for employees on average, during the period of working time banking (or accounting period), and upon closing working time banking (the accounting period) both a completed working time and the weekly rest days shall be recorded.

The Labour Code also makes it possible to allocate rest days cumulatively, within a narrow scope determined in Section 105(3) of the Labour Code. According to this, in the case of employees working continuous shifts, engaged in shift work or in seasonal jobs, it is not compulsory to allocate a weekly rest day after six days of work. At the same time, with regard to Section 105(4) of the Labour Code, employees

shall be allocated at least one rest day in a given month on a Sunday, if they work continuously for more than six days. However, even in this case, the basic requirement determined in the law with regard to work schedule is still valid, according to which employers shall ensure that the work schedule of employees is drawn up in accordance with occupational safety and health requirements and in consideration of the nature of the work [Section 97(1) of the Labour Code]. When determining the work schedule, employers are obliged to ensure regular rest for employees, and rest days cannot be accumulated in an arbitrary manner.

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period no changes took place in the legislation concerning the fulfilment of the obligation to provide information.

B. Rules applicable to public service officials

Pursuant to Section 43(1) of the Public Service Officials Act, the appointment letter shall contain

a) the category on the basis of which the public service official is rated, the rating and the payment grade,
b) the public service official's salary and its set level compared to the basic salary suiting his/her rating,
c) the public service official's position and determined tasks,
d) the public service official's place of work,
e) the obligations prescribed with regard to the public service official's progress, and
f) the day when the public service official's government service relationship starts.

If the appointment letter does not contain the day when the public service official's government service relationship starts, the legal relationship shall start on the day following the day when the appointment is accepted. Furthermore, the government official's job description shall also be attached to the appointment.

Section 8(1)-(2) of Government Decree 30/2012. (III. 7.) regulates – in an unchanged manner – the obligation to provide information borne by the employer in connection with establishing the legal relationship, in accordance with the provisions of the Labour Code, while also taking into account certain special aspects of the public service and government service relationship, such as the start of the service time and the entitlement to length of service award.

"Section 8(1) Upon appointment, the exerciser of the employer's rights shall inform public service officials about the following:

a) the governing work schedule,
b) the starting day of the service time eligible for length of service award, and the date of reaching the next rating and payment grade,
c) other benefits and their amount,

d) the day on which payment is transferred,
e) the day of starting work,
f) the rules of determining the period when exempted from work,
g) the amount of vested leave and the rules of granting leave, and
h) the exerciser of the employer's rights.

(2) The exerciser of the employer's rights shall also be obliged to provide written information for public service officials as prescribed in Subsection (1), within thirty days following appointment at the latest. Written information can also be provided by adding a reference to the provisions of the legal act or the internal regulations. The exerciser of the employer's rights shall be obliged to provide written information for public service officials about any change occurring in Subsection (1)a)-d) and f)-g) within thirty days following the occurrence of the given change."

Pursuant to Section 6(1) of the State Officials Act, the appointment letter shall contain

a) the career grade on the basis of which the state official is rated,
b) the state official's salary,
c) the state official's position and determined tasks,
d) the organisational unit designated for the employment of the state official,
e) the state official's place of work,
f) the order relating to transferring the state official for official purposes,
g) the obligations prescribed with regard to the state official's progress, and
h) the day when the state official's state service relationship starts."

C. Rules applicable to the professional members of the armed forces

The new Armed Forces Act does not change the earlier regulations, consequently the service relationship is established for an open term upon being appointed as a member of the professional staff and accepting this appointment. A new element is that it allows employment for a fixed period, but only in the case of substitution. The law lays down in detail the content elements of the appointment letter, as well as the obligations linked to the job description, borne by the exerciser of the employer's rights (handover, providing information).

The law provides that the document issued on being appointed as a member of the professional staff – which, due to its nature, is issued before the relationship is established – shall contain all essential data relating to the service relationship, such as, in particular, the start of the service relationship, the service assignment of the members of the professional staff, their rating, their place of service and performing service, their rank, their salary, their clothing supply standard, their service schedule, and, in the case that a trial period is determined, the term of the trial period, and, if necessary, obligations relating to the acquisition of qualifications. A copy of the appointment letter shall be handed over to the members of the professional staff.

The job description shall be handed over to the members of the professional staff upon starting their first service at the latest, and they shall be informed about the occupational safety and health rules needed for performing service and about the rules of service performance. This provision was included in the legislation upon accepting the new law, as from 1 July 2015.

The main rules of the new Armed Forces Act relating to appointment and rating in a service position:

"Section 44(1) The service relationship is established upon being appointed as a member of the professional staff and accepting such appointment, for an open term, or for a fixed term in accordance with the provision of this law.
Section 45(1) The document issued on being appointed as a member of the professional staff shall contain all essential data relating to the services relationship, such as, in particular, the start of the service relationship, the service assignment of the members of the armed forces, their rating, their place of service and performing service, their rank, their salary, their clothing supply standard, their service schedule, and, in the case that a trial period is determined, the term of the trial period, and, if necessary, obligations relating to the acquisition of qualifications. A copy of the appointment letter shall be handed over to the members of the professional staff.
(2) If the appointment as a member of the professional staff is within the powers of the Minister or the national commander, the appointment as a member of the staff and the rank granted shall be determined in the employer's measures taken by the Minister or the national commander, while other orders relating to determining the service position shall be included in the employer's measures taken by the commander in charge.
(3) The job description shall be handed over to the members of the professional staff upon starting their first service at the latest, and they shall be informed about the occupational safety and health rules needed for performing service and about the rules of service performance."

In the framework of the service relationship, the exerciser of the employer's rights shall be obliged to lay down in the job description the tasks of the members of the professional staff, employ them in accordance with the rules relating to service relationship and other legal acts, ensure healthy and safe service conditions for them and inform them about the requirement relating to ensuring healthy and safe service conditions. [Section 101(1)*a)* of the new Armed Forces Act].

The appointment letter – which is already available when the employment relationship is established – shall contain all essential data relating to the service relationship, such as, in particular, the start of the service relationship, the service assignment of the members of the professional staff, their rating, their place of service and performing service, their rank, their salary, their clothing supply standard, their service schedule, and, in the case that a trial period is determined, the term of the trial period, and, if necessary, obligations relating to the acquisition of qualifications. A copy of the appointment letter shall be handed over to the members of the professional staff. Although it is not laid down separately in the law, the appointment letter shall obviously contain the parties too. [Section 45(1) of the new Armed Forces Act]. This information is followed by handing over the job description. The law provides that the job description shall be handed over upon starting service for the first time. [Section 45(3) of the new Armed Forces Act].

2) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests information on whether the employment contract or any other document contains information about the contracting parties,**

the place of performing work, and the term of the fixed-term contract or the employment relationship.

Chapter VII of the Labour Code entitled “Commencement of an Employment Relationship” contains the rules relating to employment contracts under Title 24 “Employment contracts”. On the basis of this, an employment relationship is deemed established by entering into an employment contract [Section 42(1) of the Labour Code], which shall be concluded in writing (Section 44 of the Labour Code).

“Section 42(1) An employment relationship is deemed established by entering into an employment contract.
(2) Under an employment contract:
a) the employee is required to work as instructed by the employer;
b) the employer is required to provide work for the employee and to pay wages.
Section 43(1) Unless otherwise provided for by law, the employment contract may derogate from the provisions of Part Two and from the employment regulations to the benefit of the employee.
(2) Such derogations shall be adjudged by comparative assessment of related regulations.
(3) The rules relating to the agreement concerning the parties’ rights and obligations deriving from the employment relationship shall be subject to the derogations provided for in Subsection (4).
(4) The agreement referred to in Subsection (3) shall be put down in writing, if the rules relating to employment relationships so provide.
Section 44 Employment contracts may only be concluded in writing. Invalidity on the grounds of failure to set the contract in writing may only be alleged by the employee within a period of thirty days from the first day on which he/she commences work.”

The rules relating to professional members of the law enforcement bodies are included in the provisions of the new Armed Forces Act presented above in detail.

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period no legislative changes occurred in respect of night work.

B. Rules applicable to public service officials

Pursuant to Section 140(3) of the Public Service Officials Act, those employees are entitled to night shift supplement, who work between 10:00 p.m. and 6:00 a.m. on the basis of their work schedule. The amount of the supplement shall be 0.45% of the basic salary, per hour. If the work schedule is only partly within the period between 10:00 p.m. and 6:00 a.m., the night shift supplement shall be due pro rata temporis.

C. Rules applicable to the professional members of the armed forces

The new Armed Forces act contains the definition of night service. One of the guarantee arrangements concerning the service schedule is a provision relating to the prohibition of scheduling pregnant women and breastfeeding mother to night shift, or single parents to twenty-four-hour service. The night shift supplement is a part of the supplement system.

The main provisions of the new Armed Forces Act relating to night service are the following:

"Section 2 For the purposes of this Act:
10. 'night service' shall mean service performed in the period between ten o'clock at night and six o'clock in the morning;

Section 136(1) Members of the professional staff may not be scheduled to night shift or to twenty-four-hour service in the case of
a) female members of the professional staff, from the time the employee's pregnancy is diagnosed until her child reaches one year of age, and
b) members raising a child as single parents, until their child reaches ten years of age, if the child cannot be supervised by others.
Section 161(1) Members of the professional staff shall be entitled to the following supplements, depending on the place, time and circumstances of their service, in accordance with the conditions determined in the ministerial decree:
c) the night shift supplement shall be 0.5% of the law enforcement remuneration basis for each hour completed, and
(3) Service positions representing an entitlement to other supplements and the conditions of the payment of supplements shall be determined by the Minister in a decree."

On top of what has been presented above, the new Armed Forces Act also prohibits ordering night service in the case of those performing light service [Section 79(2) of the new Armed Forces Act] and in the case of those employed as members of the senior staff [Section 322(2) of the new Armed Forces Act]. Members of the professional staff can be allowed to perform light service ten years before reaching the upper age limit of professional service – i.e. the retirement age –, provided that they fulfil certain conditions, while senior members are those who had retired from service at one point but then returned to service. Consequently, in both cases the rule is intended to relieve older age groups.

2) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests information on whether the organisations representing employees' interests were involved in the discussions when regulating night work.**

When preparing labour regulations, the Government of Hungary continuously consults the social partners, and determines its labour market policies via tripartite negotiations.

With regard to regulations relating to the world of work, discussions are held within the framework of the Permanent Consultation Forum of the Private Sector and the Government. Detailed information about the consultation is provided in Article 6 Paragraph 1 of this report.

There is no regular consultation with the representatives of the employees specifically concerning the subject of night work, but at the regular plenary meetings of the National Work Safety Committee consisting of representatives of the employers, the employees and the Government, the parties can initiate consultation about any issue concerning occupational safety and health.

The consultation forum referred to in Section 78 of Act XCIII of 1993 on occupational safety and health: The Work Safety Committee operating under its own rules of procedure, consisting of representatives of the employers, organisations representing employees' interests and the Government undertakes national consultation concerning safe work not endangering health.

The occupational safety and health representatives elected at the employers can turn to the employers, the occupational health medical practitioners or to the authorities on any issue (also including special issues concerning night work).

ARTICLE 5: THE RIGHT TO ORGANISE

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

As from 1 January 2012, Act II of 1989 on the right of association was replaced by Act CLXXV of 2011 on the right of association, the public benefit status and the operation of civil organisations (hereinafter referred to as Civil Act).

The Fundamental Law of Hungary ensures the freedom of association according to the following [Article VIII Paragraphs (2) and (5)]:

"(2) Everyone shall have the right to establish and join organisations.
(5) Trade unions and other interest representation organisations may be formed and may operate freely on the basis of the right to association."

In accordance with the Fundamental Law, the Civil Act described in detail the guarantees for the operation of organisations established on the basis of the right of association.

The Civil Act lays down that the right of association is a fundamental freedom to which all persons are entitled, on the basis of which everyone has the right to establish or join organisations and communities together with others [Section 3(1) of the Civil Act]. On the basis of the right of association natural persons and – according to the purpose of their activity and the intention of their founders – legal entities and their organisations without a legal personality may establish and operate organisations [Section 3(2) of the Civil Act]. According to the former regulations, only private persons could be members of trade unions. However, on the basis of the provision of the Civil Act cited above, legal entities can also be members of trade unions.

Exercising the right of association shall be without prejudice to Article *C)* Paragraph (2) of the Fundamental Law, it may not constitute a crime or contribute to the commission of a crime, and it may not result in the violation of other persons' rights or freedom [Section 3(3) of the Civil Act]. On the basis of the right of association, an organisation can be established for the purpose of performing any activity, which is in compliance with the Fundamental Law and is not prohibited by law [Section 3(4) of the Civil Act].

An association is a legal entity established by registration.
A union is an association, which can be founded and operated even by two members. Members of a union can be associations, foundations, other legal entities, organisations without a legal personality or civil societies; natural persons cannot be members of a union. [Section 4(3) of the Civil Act]

The Civil Act specifically mentions trade unions as a type of associations. According to Section 4(1) of the Civil Act, an association is established on the basis of the right of association, and in respect of its specific forms, i.e. unions, political parties, trade unions and associations performing activities under a separate law, the law may determine rules that are different from the provisions relating to associations. It is not necessary to state the type or form of the association in the name of the association (association of a specific form); an organisation (association of a specific form) can be established and operated under a name containing the term union or another term relating to the exercising of the right of association.

Consequently, a trade union must fulfil the conditions relating to associations first, in order to be recognised as a trade union. According to Section 2(6) of the Civil Act, an association registered in Hungary shall be regarded as a civil organisation, with the exception of political parties, trade unions and mutual associations. The provisions of the Civil Act shall be applied to trade unions, except for the rules included in Chapters VII-X of the Act. According to Section 4(1) of the Civil Act, a trade union is an organisation set up on the basis of the right of association, and, especially, it is an association operating in a specific form. The most important distinctive feature of a trade union as opposed to the common definition of association is that its primary aim is to promote and protect employees' interests in connection with their employment relationship. If the main aim of the organisation is other than promoting employees' interests in connection with their employment relationship, then it cannot be regarded as a trade union.

Only an organisation aiming at protecting employees' interests can be registered as a trade union. This is laid down in Section 270(2)a) of Act I of 2012 on the Labour Code (hereinafter referred to as Labour Code), according to which for the purposes of the Labour Code 'trade union' shall mean all organisations of workers whose primary function is the enhancement and protection of employees' interests related to their employment relationship.

Act CLXXXI of 2011 on the registration of civil organisations by court and on the relating procedural rules provides for the court registration of associations set up on the basis of the Civil Act. [Section 4a)]

The Act summarises the rules relating to registration, which also apply to the registration of trade unions. The Act regulates the documents to be attached to the application for the registration of an organisation, the tasks of the court after the application for registration has been submitted, the conditions of rejecting an application, the criteria of the substantive assessment of the application for the registration of an organisation, and the content elements of the application for the registration of associations specifically (including trade unions), and the rules of procedure aimed at the registration of associations.

According to Section 13 of the Civil Act, trade unions are registered by the general court. The person authorised to represent the trade union shall be obliged to submit the application to the court. If a memorandum of association issued on the basis of the sample memorandum of association under specific legislation is attached to a civil organisation's application for registration submitted electronically, the court shall assess the application within fifteen days following receipt. [Section 13(2) of the Civil Act]

The court keeping the register has jurisdiction to conduct non-contentious civil procedures determined in this Act.

The documents shall be submitted in one copy, on a form – if a form is prescribed by a legal act regarding the application –, in accordance with the provisions included in Decree 11/2012. (II. 29.) of the Ministry of Public Administration and Justice on the forms to be used by civil organisations in court procedures.

The application can be submitted exclusively electronically, with the exception of the organisations listed in the Act (e.g.: unions), if the applicant proceeds with a legal representative or requests a simplified registration procedure (procedure to amend registration).

If a memorandum of association issued on the basis of the sample memorandum of association under specific legislation is attached to an association's application for registration (application to amend registration), this circumstance shall be indicated on the form attached to the application for registration. In this case exclusively the appendices required in the sample document determined in the legal act can be attached to the application. If the sample document is supplemented or any of its provisions is deleted – including the case when no reference is made to the type of the sample document – the court shall reject the application without any substantive assessment. The court shall make a decision on the application for registration within fifteen days following receipt of the application.

Within the same deadline the court shall take action to deliver the decision on ordering registration or on rejecting the application for registration.

In the reference period several legislative amendments were made to accelerate and streamline court procedures aimed at registration and amending registration.

The amendment of Act V of 2013 on the Civil Code (hereinafter referred to as Civil Code) concerning the regulation on associations significantly simplifies the content of the statute of associations. The Civil Code itself contains regulations concerning the organisational and operational rules, which, according to the currently valid Civil Code, must be determined in the statute, so in the future these issues do not need to be repeated in the statute. It is enough to record the association's basic data in the association's statute.

The application for the registration of a union must contain the name, the main establishment and the registration number of the associations establishing the union.

The registration of unions shall be governed by the rules relating to the registration of associations.

On the basis of the list of members appended to the statute attached to the application for registration, the court shall examine whether the number of founders is in compliance with the provisions included in the Act.

On the basis of the statute attached to the application for registration the court shall examine whether the objectives of the association laid down in the statute comply with the legal provisions, and whether the provisions of the statute ensure the operation of the association within the framework determined by law. [Section 67(3)]

Sections 63-66 of the Act determine the special rules governing the application for the registration of the association. Besides the documents to be attached to the application for registration in general, the minutes of the inaugural meeting shall also be attached together with the relating attendance sheet containing the members' name, place of residence (main establishment) and signature, and the declaration of the members of the association's administrative and representative body on accepting membership and on the requirements determined in the legal act. If the association intends to operate a supervisory body, the declaration of the members of the supervisory body on accepting membership and on the requirements determined in the legal acts shall also be attached to the application. With a view to appropriately ensuring access to public documents in accordance with the legal prescriptions, documents containing either public and non-public data or only non-public data shall be attached separately to the application for the registration of the association.

A union of associations also needs to be registered in the register of associations, so the special rules applicable to unions are also included herein. In this context the application for registration must contain the name, the main establishment and the registration number of the associations establishing the union of associations. In other respects, the registration of the union of associations shall be governed by the rules relating to the registration of associations.

The registered information of civil organisations is available in a national, unified, electronic authentic registry, which is accessible for everyone, free of charge.

The court register contains the trade union's registration number and serial number, the number of the decision ordering registration, and the day when the decision became final, the trade union's name and main establishment, the name and place of residence of the trade union's representative, the trade union's objective and classification by purpose, and finally the date of the statute. Both the valid and deleted data of the registration is public.

Chapter VI of the Act clarifies issues relating to the publicity of court procedures, and lays down the relating obligations of the National Judicial Office (hereinafter referred to as NJO) and the courts. In this context the NJO is responsible for the operation of the IT system, ensuring by this compliance with the requirements relating to the publicity of the register. The register and, in particular, the national nomenclature are both public registers. The valid and deleted data of the register is public; such data can be viewed on the internet via the national nomenclature, without identification.

The attendance sheet of the meetings of the association's bodies and the register of the members of the association are exceptions to the principle of public access.

The Act also specifies the parties to whom a copy, extract or certificate of the organisation's data can be issued and in what scope, and it lays down that the issue of such documents can be requested by the organisation. The organisation can be the applicant. A copy certifies all valid and deleted data of the register, an extract certifies the valid data included in the register, and a certificate – depending on the application – credibly demonstrates certain valid or deleted data of the register and that a given entry is (was) not included in the register. Copies, extracts and certificates shall be prepared in a manner determined in the legal act.

Associations are obliged to deposit their report every year before 31 May by sending the report – the original or its certified copy – to the NJO electronically (via the so-called Customer Portal), on a form or on paper. Unions are obliged to conduct electronic procedures. If the applicant is not obliged to go through an electronic procedure, it can submit its report using a form completing program, or without using such a program, by post or in person, or even electronically. The NJO shall publish the reports of civil organisations free of charge.

Pursuant to Section 5(1) of Act XCIII of 1990 on fees and charges (hereinafter referred to as Act on Fees and Charges), associations shall be completely exempt from personal fees and charges, and, in particular, the registration procedure and registration amendment procedure of the association shall also be free of charge. In the case that the party obliged to pay fees and charges is exempted (exemption from personal fees and charges), the exempt party cannot be obliged to pay the fees and charges. [Section 4(1) of the Act on Fees and Charges]

A. Rules governing employment

The Labour Code regulates the guarantees relating to ensuring the right to organise subject to the provisions of the Fundamental Law and the Civil Act. Part Three of the Labour Code regulates industrial relations. In this context it ensures the freedom of coalition formation. It guarantees the possibility both for employees and employers to establish interest representation organisations. Furthermore, it entitles employees to operate their organisations within the employer's organisation.

Among the general provisions, the following is recorded in Chapter XIX:

"Section 230 With a view to protecting the social and economic interests of workers and to maintaining peace in labour relations, this Act shall govern the relations between trade unions, works councils and employers, and their interest representation organisations. Accordingly, it shall guarantee the freedom of organisation and the employees' participation in the formation of working conditions, furthermore, it shall regulate collective bargaining negotiations, as well as the procedures for the prevention and settlement of employment-related conflicts.
Section 231(1) In accordance with the conditions prescribed by law, employees and employers shall have the right to establish together with others, without any form of discrimination whatsoever, interest representation organisations for the promotion and protection of their economic and social interests, and, at their discretion, to join

or not to join an organisation of their choice, depending exclusively on the regulations of such organisation.
(2) Interest representation organisations shall be entitled to establish unions or to join such, also including international unions.
(3) Employees shall be entitled to set up trade unions at their place of employment. Trade unions shall be entitled to set up organs at the employers, and to involve their members in the operation of such."

Sections 230-231 of the Labour Code determine the aim and subject of the regulation in a declaratory manner. Section 230 of the Labour Code gives a summary of the labour regulatory framework of "industrial relations", while Section 231 summarises the individual rights relating to the freedom of coalition.

One of the outstanding aims of regulating industrial relations was to set up regulations that are completely in compliance with the aim of collective rights, increasing employees' involvement and the efficiency of the regulations relating to the conclusion of collective agreements. By separating the role of works councils and trade unions at the workplace, the Labour Code created a new basis for collective rules on employment, reducing by this the costs of the earlier system for businesses and the society. The aim of the Labour Code is to encourage the representation of employees at the level of workplaces via works councils and at sectoral level via trade unions.

Chapter XXI of the Labour Code provides for trade unions. This chapter contains the definition of trade union (Section 270 of the Labour Code), and regulates the guarantees linked to belonging to a trade union (Section 271 of the Labour Code), the rights of trade unions (Section 272 of the Labour Code), the protection of trade union officials (Section 273 of the Labour Code), working time reduction (Section 274 of the Labour Code), and the conditions of the use of premises (Section 275 of the Labour Code).

Section 270(1) of the Labour Code clearly records that the local trade union branch represented at the employer is entitled to trade union rights, rather than trade unions in general. Furthermore, the Labour Code provides the definition of trade union and local trade union branch represented at the employer. In accordance with this, for the purposes of the Labour Code:

"a) 'trade union' shall mean all organisations of workers whose primary function is the enhancement and protection of employees' interests related to their employment relationship,
b) 'local trade union branch represented at the employer' shall mean a trade union which, according to its statutes, operates an organisation authorised for representation or has an officer at the employer (Section 270(2) of the Labour Code)."

The prohibition of discrimination and the respect for the freedom of coalition, as well as the prohibition of causing disadvantage in connection with trade union affiliation, and the guarantees linked to it are recorded in Section 271 of the Labour Code as below:

"Section 271(1) Employers may not demand that employees disclose their trade union affiliation.
(2) Employment of an employee may not be rendered contingent upon his/her membership in any trade union, on whether or not the employee terminates his/her previous trade union membership, or on whether or not he/she agrees to join a trade union of the employer's choice.
(3) The employment relationship of an employee shall not be terminated, and the employee shall not be discriminated against or mistreated by the employee in any other way on the grounds of trade union affiliation or trade union activity.
(4) No entitlement or benefit may be rendered contingent upon affiliation or lack of affiliation to a trade union."

The Labour Code regulates the rights of trade unions as follows:

- The right to conclude collective agreements [Section 272(1) of the Labour Code]

Trade unions shall be entitled to conclude collective agreements in accordance with the regulations set out in this Act. The detailed rules relating to this right are included in Article 6(2).

- The right to provide information to employees [Section 272(2) of the Labour Code]

Trade unions shall have the right to provide information to employees relating to industrial relations or employment relationships. Section 272(2) of the Labour Code restricts the scope of providing information to issues concerning industrial relations and employment relationships, which is a narrower scope as before. The valid regulations relate explicitly to the relationship between the trade union and the employer and to issues concerning the employment relationship.

- The right to request information [Section 272(4) of the Labour Code]

Trade unions may request information from employers on any issue related to the economic interests and social welfare of employees in connection with their employment.

- The right to trade union propaganda [Section 272(3) of the Labour Code]

Employers – upon consulting the trade union – shall provide the means for the trade union to display information connected to its activities at the employer. According to this, if a trade union intends to inform the employees about its activity, whether for the purpose of recruiting members, the employer shall be obliged to assist actively in this, e.g. by making available the means needed for displaying information.

According to settled case-law, trade unions can exercise their right to provide information suiting their purpose, fulfilling their obligation to cooperate, and not only beyond the hours of duty (BH – compilation of court rulings – No. 2011 263).

- The right to express opinion and initiate consultation [Section 272(5) of the Labour Code]

Trade unions shall be entitled to express their opinion to the employer concerning any employer action (decision), or the draft of such decisions, and to initiate talks in connection with such actions. In this context trade unions can express their opinion to the employer on any employer action (decision) or the draft of such decisions. At the same time, however, the employer is not obliged to take into consideration the trade union's opinion. In the context of expressing its opinion, the trade union can also initiate consultation.

The general rules of consultation are presented under Article (6)(2) and Article 21.

- The right to represent [Section 272(6)-(7) of the Labour Code]

Trade unions have the right to represent employees with respect to the employer or its interest representation organisation concerning their rights and obligations affecting their financial, social, living and working conditions. Trade unions shall be entitled to represent their members – under authorisation – before the court, the relevant authority and other organs with a view to protecting their economic interests and social welfare.

Trade unions have a dual representation right. According to this, with regard to the employer they can proceed without an authorisation. They can represent employees in front of courts, authorities or other bodies only on the basis of an authorisation.

Trade unions do not simply represent their members, but all employees vis-à-vis the employer.

- The right to use the employer's premises [Section 272(8) of the Labour Code]

The Labour Code ensures the right to use premises. According to this, trade unions have the right to use the employer's premises after or during working hours, as agreed with the employer, for the purposes of interest representation activities.

- The right to transfer membership dues to the trade union free of charge [Section 272(9) of the Labour Code]

Employers shall not claim any compensation for deducting membership dues or for transferring membership dues to the trade union. Act XXIX of 1991 on the voluntary payment of the employee representation membership fee provides for the deduction of the trade union membership fee.

- Working time reduction (Section 274 of the Labour Code)

The aim of working time reduction determined in Section 274 of the Labour Code is to ensure the performance of the interest representation activity. Not only trade union officials, but any employee designated by the trade union can be entitled to working time reduction.

The conditions of using working time reduction are the following:
With a view to discharging their trade union functions of interest representation, employees shall be entitled to working time reduction, and employees designated according to Section 273 Subsections (3)–(4) shall be exempted from work for the duration of consultation with the employer [Section 274(1) of the Labour Code]. The total amount of working time reduction available under Subsection (1) in a given calendar year shall be one hour monthly for every two trade union members employed by the employer. The amount of working time reduction available shall be determined based on the number of trade union members registered on the first of January [Section 274(2) of the Labour Code].

Working time reduction shall be provided to employees designated by the trade union. The trade union shall notify the employer of its intention to claim working time reduction at least five days in advance, except if claimed under unforeseen and overriding reasons of urgency, or under exceptional circumstances. [Section 274(3) of the Labour Code]
Working time reduction can be claimed by the end of the given year. Working time reduction shall not be financially compensated. [Section 274(1) of the Labour Code]
Absentee pay shall be provided for the duration of working time reduction and for the duration of consultation with the employer. [Section 274(5) of the Labour Code]

- The right to enter the employer's premises (Section 275 of the Labour Code)

A person acting on behalf of a trade union who is not employed by the employer shall be admitted onto the employer's premises, if any member of the trade union in question is employed by the employer. During visiting the employer's premises the rules relating to the employer's operating procedures shall be observed.

- Labour rights protection provided for trade union officials (Section 273 of the Labour Code)

The prior consent of the higher ranking trade union body is required for terminating the employment relationship by notice of an employee designated according to the provisions of Subsection (3) as serving as an elected trade union official (hereinafter referred to as official), and for the employer's actions affecting officials, referred to in Section 53. [Section 273(1)]

Such officials shall be entitled to protection for the duration of their term in office and for a period of six months thereafter, provided that the official held the office for at least twelve months. [Section 273(2)]

The number of officials the trade union is entitled to designate from among the workers employed at a fixed establishment that is considered independent according to Section 236 Subsection (2), if the average statistical number of employees on the first day of the calendar calculated with regard to the previous calendar year is

a) not above five hundred persons: one person,
b) above five hundred persons, but not above one thousand persons: two persons,
c) above one thousand persons, but not above two thousand persons: three persons,

d) above two thousand persons, but not above four thousand persons: four persons,
e) above four thousand persons: five persons.

[Section 273(3)]

Apart from the officials designated as above, protection shall also be afforded to one other official designated by the supreme body of the local trade union branch represented at the employer. [Section 273(4)]
Trade unions shall be entitled to replace the employee designated in accordance with Subsections (3)–(4), if the employment relationship or trade union office of such employee has been terminated. [Section 273(5)]

The trade union shall communicate its opinion in writing with respect to the employer's action referred to in Subsection (1) above, within eight days of receipt of the employer's written notice. If the trade union does not agree with the proposed action, the statement shall include the reasons for it. Failure by the trade union to convey its opinion to the employer within the above specified time limit shall be construed as agreement with the proposed action. [Section 273(6)]

The Labour Code prescribes that protected trade union officials shall be designated by the trade union in writing and reported to the employer. Furthermore, the Labour Code determines that the number of protected officials shall be 1-5 persons plus 1 person. Protection extends only to officials designated by the trade union by sending a written notification to the employer. Written notification shall be subject to the general rules relating to legal statements, and especially to Section 18 of the Labour Code regulating the provision of information.

Officials shall be entitled to protection for the duration of their term in office and for a period of six months thereafter, provided that the official held the office for at least twelve months. [Section 273(2)]

If the employer argues the trade union granting or denying consent, it may turn to court in the interest of the replacement of the legal statement. [Section 7(2) of the Labour Code]

In the case that the provisions relating to labour right protection are violated, the employer's action shall be regarded unlawful. If the trade union denies consent, but despite this the employer takes action, it shall also be regarded as an unlawful action. In this case the employee can initiate an employment dispute with regard to the given action. If the employer terminates the employee's employment relationship contrary to Section 273 of the Labour Code, then in accordance with Section 82(1) of the Labour Code it shall be obliged to provide compensation for damage resulting from the unlawful termination of the employment relationship. Furthermore, according to Section 83 of the Labour Code, at the employee's request the court shall reinstate the employment relationship, if it was terminated contrary to Section 273(1) of the Labour Code.

When regulating industrial relations, the Labour Code determines exceptions in the case of public employers. According to Section 206 of the Labour Code no derogation is allowed from Chapters XIX-XXI of the Labour Code.

Public employer means a public foundation, or a business association in which the state, a municipal government, a minority government, an association of municipal governments, a regional development council, a budgetary agency or a public foundation has majority control either by itself or collectively. [Section 204(1) of the Labour Code]

Majority control means a relationship where a person controls over fifty per cent of the voting rights in a legal person that has dominant influence, directly, or indirectly through another legal person that has voting rights in that legal person (intermediary company). Indirect control shall be determined by multiplying the ratio of votes held by another legal person in that legal person (intermediary company) by the ratio of votes held by the holder of a participating interest in the intermediary company or companies. If the ratio of votes controlled by the holder of a participating interest in the intermediary company is greater than fifty per cent, it shall be treated as a whole. [Section 204(2) of the Labour Code]

B. Rules applicable to public service officials

Among the explanatory provisions of Act CXCIX of 2011 on public service officials (hereinafter referred to as Public Service Officials Act), point 18 of Article 6 contains the definition of local trade union branch represented at an administrative body, while point 30 contains the definition of trade union. Sections 195-197 of the Public Service Officials Act regulate – without changes – the right to organise (the definition of trade union, the right to organise, the rights of trade unions, the right to join a trade union, trade unions' right to request information, the employer's obligation to provide information). Section 196(5) of the Public Service Officials Act states that local trade union branches represented at governmental entities are entitled to the rights of trade unions provided in Public Service Officials Act. Trade unions enjoy the following main privileges: the right to establish and organise a trade union [Section 195(4) of the Public Service Officials Act], the right to provide information to public service officials [Section 200(6) of the Public Service Officials Act], the right to represent public service officials in front of the employer or the employer's representative body [Section 200(8) of the Public Service Officials Act], the right to represent trade union members in court or in front of other authorities [Section 200(9) of the Public Service Officials Act], the right to express opinion and hold consultations [Section 202(2)-(3) of the Public Service Officials Act], the right to request information and make proposals [Section 200(4)-(5) of the Public Service Officials Act]. Section 197 of the Public Service Officials Act contains the guarantee arrangements – without changes – (e.g. the prohibition of discrimination) that public service officials are entitled to in the case that they are trade union members.

Pursuant to Section 201(1) of the Public Service Officials Act, the prior consent of the higher ranking trade union body is required for terminating the employment relationship by notice of a government official holding an office at the trade union and designated by the trade union. If the employer terminates the trade union official's government service relationship unlawfully, on the basis of Section 193(1)b) of the Public Service Officials Act the government official may request continued employment in his/her original position.

Pursuant to Section 193(1)b) of the Public Service Officials Act, continued employment can also be requested, if the termination of the legal relationship was contrary to the requirement of equal treatment. In such cases the government official's overdue salary (and other emoluments) must be paid, and the government official must also be compensated for his/her loss suffered in relation to the unlawful termination of his/her legal relationship. If the government official does not request continued employment, or if the court grants immunity from it, then the government service relationship shall terminate on the day when the decision determining unlawfulness becomes final, and the court shall oblige the employer to pay minimum two and maximum twelve months' salary to the government official.

C. Rules applicable to the professional members of the armed forces

The Government, in Government Decision 1846/2014. (XII. 30.) on introducing the new public service career model, accepted the concept on the introduction of the new public service career model in the interest of the restructuring of public service systems and creating law enforcement, national defence and public administration careers. As part of this concept, a new law is required in respect of employees having a professional service relationship, to replace Act XLIII of 1996 on the service relationship of members of the professional staff.
In this context, Act XLII of 2015 on the service relationship of the professional staff of law enforcement organisations (hereinafter referred to as the new Armed Forces Act) contains the following provisions as from 1 July 2015:

Chapter XXX of the new Armed Forces Act contains regulations relating to the right to organise, and to trade unions. Representative bodies established at law enforcement organisations to protect the interests of the professional staff operate on the basis of the provisions of the Act on the Right of Association and the Armed Forces Act. As law enforcement organisations do not have works councils or representatives, the appropriate involvement of the representative bodies must be ensured – if they meet the criteria required – within the framework of the service relationship. The new Armed Forces Act records that the local trade union branches represented at law enforcement organisations are entitled to the rights granted to trade unions.

In respect of the freedom of association the new Armed Forces Act contains the key concepts. According to this, members of the armed forces may set up and join representative bodies on the basis of the freedom of association, within the framework determined in the new Armed Forces Act. In accordance with the conditions prescribed by law, members of the professional staff have the right to establish, together with others, without any form of discrimination whatsoever, representative organisations for the promotion and protection of their economic and social interests, and to join or not to join an organisation of their choice, depending exclusively on the regulations of such organisation.

Representative bodies can work freely and exercise their powers within the limits of the new Armed Forces Act. However, they are not allowed to organise strikes, and their activity – including undermining public confidence needed for the operation of law enforcement organisations – cannot prevent the lawful and appropriate operation of the law enforcement body, or the fulfilment of the obligations relating to the

execution of commands and the implementation of actions by members of the professional staff. Furthermore, members of the professional staff may not join any organisation the activity of which interferes with the tasks of the law enforcement body.

Members of the professional staff – with the exception of members of the staff of national security services – continue to have the right to establish a trade union at the law enforcement body. The trade union is entitled to set up bodies at the law enforcement organisation and to involve its members in the operation of such. The parties bear the obligation to cooperate and provide information during their activity, in the scope of which, however, the law enforcement organisation may refuse to provide information, if it may result in the disclosure of facts, information, solutions or data, which may endanger law enforcement interests, or the lawful interests or the cooperation of the law enforcement organisation.

The new Armed Forces Act – in compliance with the provision included in the 2nd and 3rd sentence of Article 5 of the amended Social Charter, and the possible constraints under Part V Article G Section 1 relating to national security – records that members of the professional staff of civil national security services may not be members of a trade union, and no trade unions representing the professional staff are allowed to operate at civil national security services. [Section 333(1) of the new Armed Forces Act]

In order to guarantee equal rights, the new Armed Forces Act records that being or not being a member of a representative body may not result in discrimination. In accordance with this, the law enforcement organisation may not require members of the professional staff to declare whether they belong to ae trade union, and the establishment or maintenance of the legal relationship cannot be made conditional on whether persons applying to be members of the professional staff, or the members of the professional staff are members of a trade union, whether they terminate their former trade union membership, or whether they undertake to join the trade union determined by the law enforcement organisation. The service relationship of the members of the professional staff must not be terminated on the grounds that they are members of a trade union or on the grounds of their trade union activity, and they must not be discriminated against in any way, and no entitlements or benefits can be made conditional on belonging or not belonging to a trade union.

Due to the specific characteristics of law enforcement organisations, the new Armed Forces Act separately regulates the rules relating to trade union interest reconciliation and entitlements.

The system of law enforcement interest reconciliation forums is governed independently by the new Armed Forces Act. With a view to the reconciliation of the interests of the personnel in respect of issues of sectoral significance affecting the service relationship or public servant employment relationship with the law enforcement organisation, the settlement of disputes via negotiations, and the conclusion of appropriate agreements, the Minister shall consult the sectoral advocacy council. In respect of issues within its sphere of competence, the council is entitled to request information and make proposals.

The main provisions of the new Armed Forces Act relating to the right to organise are the following:

"Section 309(1) The trade union branches represented at law enforcement organisations are entitled to the rights granted to trade unions in this Act.
(2) For the purposes of this Act
a) 'trade union' shall mean a representative body whose primary function is the enhancement and protection of the interests of the members of the professional staff related to their service relationship,
b) 'trade union branch represented at the law enforcement organisation' shall mean a trade union which, according to its statutes, operates a body authorised for representation or has an officer at the law enforcement organisation.

Section 310(1) Members of the professional staff are entitled to establish a trade union at the law enforcement organisation. The trade union is entitled to set up bodies at the law enforcement organisation and to involve its members in the operation of such.
(2) The law enforcement organisation and the trade union are to provide information for each other in writing about the persons authorised to represent them and about the person of their officials.

Section 311(1) For the purposes of this Chapter, 'providing information' shall mean handing over information relating to the service relationship in such a way that such information can be consulted, examined, and an opinion on it can be created and represented.
(2) The law enforcement organisation shall not be obliged to provide information, if it may result in the disclosure of facts, information, solutions or data, which may endanger law enforcement interests, or the lawful interests or the cooperation of the law enforcement organisation.
(3) The person acting on behalf of the trade union shall not in any manner disclose facts, information, solutions or data, which was submitted to it by the law enforcement organisation in protection of its lawful interests or operation or the interests of public service, requesting such information to be handled in confidence or as classified information, and it may not use such information in any way, in the scope of any activity other than aimed at achieving the objectives determined herein.
(4) The person acting on behalf of the trade union can disclose information obtained during his/her activity only without endangering the law enforcement organisation's lawful interests or law enforcement interests, and without violating personality rights.

Section 312(1) The law enforcement organisation may not require the members of the professional staff to declare their trade union affiliation.
(2) The establishment or maintenance of the service relationship cannot be made conditional on whether persons applying to be members of the professional staff, or the members of the professional staff are members of a trade union, whether they terminate their former trade union membership, or whether they undertake to join the trade union determined by the law enforcement organisation.
(3) It is prohibited to terminate the service relationship of the members of the professional staff or to discriminate against them in any other way on the grounds that they are members of or perform an activity in a trade union.

(4) No entitlements or benefits can be made conditional on belonging or not belonging to a trade union.
(5) Act XXIX of 1991 on the voluntary payment of the employee representation membership fee does not need to be applied in respect of trade unions operating at the law enforcement organisation. The law enforcement organisation shall deduct the trade union membership fee from the salary of the members of the professional staff on the basis of a relevant agreement between the law enforcement organisation and the members of the professional staff. The law enforcement organisation shall not claim any compensation for deducting trade union membership fees or for transferring such fees to the trade union.

123. Trade union interest reconciliation with the law enforcement organisation

Section 313(1) At the law enforcement organisation, the designated representative of the law enforcement organisation and the elected official of the trade union shall take part in interest reconciliation relating to service relationship. The negotiating parties may also involve experts in the settlement of disputed issues. The commander in charge shall be obliged to submit its position regarding the trade union's observations and proposals, and its answer to the information provided, together with a justification, within a maximum of thirty days.
(2) The trade union may request the law enforcement organisation to provide information on the economic and social interests of the members of the professional staff relating to the service relationship.
(3) The trade union shall be entitled to communicate its opinion to the law enforcement organisation concerning the employer's actions, decisions or the draft of such actions or decisions affecting the members of the professional staff.
(4) The trade union shall be entitled to provide information for the members of the professional staff on issues relating to interest reconciliation and the service relationship.
(5) The law enforcement organisation – in consultation with the trade union – shall ensure the possibility of the trade union publishing information about its activity at the law enforcement organisation, at the service premises by standard means or in any other suitable manner.
(6) The trade union shall have the right to represent the members of the professional staff with respect to the law enforcement organisation or its representative organisations concerning issues affecting the service relationship, in connection with their rights and obligations affecting their financial, social, living and working conditions.
(7) Trade unions shall be entitled to represent their members – under authorisation – concerning issues affecting the service relationship, before the court, the relevant authority and other organs, with a view to protecting their economic interests and social welfare.

Section 314(1) The prior consent of the higher ranking trade union body is required for transferring members of the professional staff holding an office at the trade union and designated by the trade union for a period of fifteen working days or for a longer period, for changing the place of service, and for the termination of the service relationship by the law enforcement organisation after notice has been given, unless dismissal is compulsory under Section 86(2). The higher ranking trade union body shall be notified in advance about dismissal under Section 86(2).

(2) During the application of the provisions included in Subsection (1), the trade union shall be entitled to designate at least one member of the professional staff per organisation unit.
(3) Instead of the member of the professional staff eligible for protection as determined in Subsection (1), the trade union may designate another member, if the service relationship or office of the member eligible for protection has terminated.
(4) The trade union shall communicate its opinion in writing concerning the employer's action referred to in Subsection (1) within eight days following receipt of the law enforcement organisation's written notice. If the trade union does not agree with the proposed action, this communication shall include the grounds for it. The grounds shall be regarded reasonable, if the implementation of the proposed action would result in discrimination due to participation in the trade union's interest reconciliation activity. Failure by the trade union to convey its opinion to the law enforcement organisation within the above specified time limit shall be construed as agreement with the proposed action.
(5) Upon designating the member of the professional staff eligible for protection, the trade union shall inform the law enforcement organisation about the body entitled to grant approval.

Section 315(1) Members of the professional staff designated for protection by the trade union as determined in Section 314(2) and holding an office at the trade union with members representing at least ten percent of the professional staff shall be entitled to service time reduction by ten percent of their monthly service time according to their service schedule, in order to perform their tasks. Service time reduction cannot be accumulated.
(3) Absentee pay shall be provided for the duration of service time reduction. Service time reduction shall not be financially compensated.

Section 316 A person acting on behalf of the trade union but not having a service relationship may enter the premises of the law enforcement organisation during office hours, if the trade union has members who have a service relationship with the law enforcement organisation. Upon entering and while staying on the premises of the law enforcement organisation, the person acting on behalf of the trade union shall be obliged to observe the rules relating to the law enforcement organisation's operating procedures.

Section 317 The National Council for the Reconciliation of Public Service Interests is also a reconciliation forum for those having a service relationship."

"122. Law enforcement interest reconciliation forums
Section 308(1) In respect of issues of sectoral significance affecting the service relationship or public servant employment relationship with the law enforcement organisation, the Minister shall consult the sectoral advocacy council.
(2) The sectoral advocacy council shall operate with the participation of the Minister, the national commander and the advisory council acting on behalf of the Hungarian Law Enforcement Corps (hereinafter referred to as HLEC).
(3) The Minister and the HLEC shall conclude a cooperation agreement concerning cooperation with the advisory council. The Minister may invite a representative of the Hungarian Government Officials Corps (HGOC) to participate in the advisory council

to reconcile the interests of those having a governmental service relationship with law enforcement bodies or with the body responsible for immigration and asylum tasks.
(4) The sectoral advocacy council shall be summoned in accordance with the arrangements and schedule set in the agreement mentioned in Subsection (3).
(5) Issues relating to the living, working and employment conditions of members of the professional staff and public servants employed in the given sector shall fall within the competence of the sectoral advocacy council, as well as all other issues that are under the responsibility of the HLEC pursuant to this Act.
(6) The sectoral advocacy council shall have the right to request information and make proposals concerning other issues falling within its competence determined in Subsection (5).
(7) The rules for the organisation and operation of the sectoral advocacy council are included in the agreement concluded between the Minister responsible for law enforcement acting on behalf of the Government and the HLEC. Its secretarial tasks shall be performed by the Ministry led by the Minister responsible for law enforcement.
(8) The provisions relating to the sectoral advocacy council do not exclude the possibility of establishing an interest reconciliation forum at a lower level."

Rules relating to the military staff of the Defence Forces

In the interest of protecting social and economic interests and maintaining service order and discipline, Act CCV of 2012 on the legal status of private soldiers (hereinafter referred to as Private Soldiers Act) regulates the relations of representative bodies, in particular trade unions, and the Defence Forces.

Members of the Defence Forces may set up, together with others, representative organisations for the promotion and protection of their economic and social interests, and join or not join organisations of their choice, depending on the regulations of such organisations.

Within the limits determined by the Private Soldiers Act, representative bodies may operate freely and exercise their powers, they may establish and join unions, including international unions.

The representative bodies may not organise strikes, and their activity may not undermine public confidence in the Defence Forces, and they may not prevent the lawful and appropriate operation of the Defence Forces, or the fulfilment of the service tasks.

Representing the interests of the non-military staff of the Defence Forces

The Trade Union of Employees at the Defence Forces (hereinafter referred to as TUEDF) is a mutual interest representing advocacy association also performing social (holiday organising) tasks. The TUEDF is a cluster of the organisations of government officials, public officials, employees, public services linked to the Ministry of Defence (hereinafter referred to as MD) and to the Hungarian Defence Forces (hereinafter referred to as HDF), employees working for business organisations, associations and foundations, pensioners and unemployed persons who left these

areas (or their legal predecessors), and the trade unions of the above, formed on a voluntary and equal base.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

According to the Act CXCV of 2011 on Public Finances (hereinafter referred to as Public Finance Act), budget support can be granted to those who meet the requirements of sound industrial relations. [Section 50(1)a) of the Public Finance Act]

Pursuant to a provision of Government Decree 368/2011. (XII. 31.) on the implementation of the Public Finance Act (hereinafter referred to as Public Finance Implementing Regulation) in force from 1 January 2015, the requirement of sound industrial relations is not met by those on whom the authority or the court imposed a final and enforceable fine or who were obliged by the authority or the court to accomplish payment into the central government budget, within two years before the date of applying for budget support, for violating the provisions relating to the amount of the wages and the deadline of payment determined in a legal act, a collective agreement, or a collective agreement extended by the Minister to the sector or subsector, for committing the same infringement as before. [Section 82(1)c) of the Public Finance Implementing Regulation]

Section 3(1)g) of Act LXXV of 1996 on labour inspection (hereinafter referred to as Labour Inspection Act) records the following in respect of the protection of collective rights:

Labour inspection shall cover the verification of the amount of the wages determined in a legal act, a collective agreement, or a collective agreement extended by the Minister to the sector or subsector, and compliance with the provisions relating to the protection of wages.

No immunity from the imposition of the labour fine can be granted, if the employer violated the provisions relating to the amount of the wages and the deadline of payment determined in a legal act or in a collective agreement, with the exception of employers subject to winding-up proceedings. [Section 6/A(1)c) of the Labour Inspection Act]

No labour fine can be imposed, if the employer pays any unpaid wages determined in a legal act or in a collective agreement within the deadline set during the proceedings. [Section 6/A(2)c) of the Labour Inspection Act]

3) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests information on fees applied in the case of establishing a trade union and registration.**

In accordance with the ECSR's request, in our answer given to point 1 we incorporated the answer to the questions relating to the registration of trade unions. According to the valid Hungarian laws, the registration of trade unions is free of

charge, and the administrative costs incurred in connection with the procedure are borne by the state.

- **The ECSR requests information on the possibility of sanctions imposed on employers in the case of discrimination against trade union officials.**

As regulated in Chapter XXI of the Labour Code on trade unions, valid labour protection is maintained for the elected officials designated by the trade union, and paid working time reduction is also ensured for them, which can be used by those who are entitled to perform trade union activities. The rights afforded by the Labour Code to trade unions shall be due to the local trade union branch represented at the employer. [Section 270(1) of the Labour Code]

Employers may not demand that employees disclose their trade union affiliation. Employment of an employee may not be rendered contingent upon his/her membership in any trade union, on whether or not the employee terminates his/her previous trade union membership, or on whether or not he/she agrees to join a trade union of the employer's choice.

It is prohibited to terminate the employment relationship of an employee or discriminate employees in any other way on the grounds that they are members of or perform an activity in a trade union.
No entitlement or benefit may be rendered contingent upon affiliation or lack of affiliation to a trade union. (Section 271 of the Labour Code)

The prior consent of the higher ranking trade union body is required for terminating the employment relationship by notice of an employee designated according to the provisions of Subsection (3) as serving as an elected trade union official (hereinafter referred to as official), and for the employer's actions affecting officials, referred to in Section 53.

Officials shall be entitled to protection for the duration of their term in office and for a period of six months thereafter, provided that the official held the office for at least twelve months. (Section 273 of the Labour Code)

If the employer terminated the employment relationship of a trade union official under protection by notice without the consent of the higher ranking trade union body, the employee may turn to court for the purpose of the enforcement of labour-law claims. At the employee's request the court shall reinstate the employment relationship, if it was terminated contrary to Section 273(1) of the Labour Code. [Section 83(1)c) of the Labour Code]

In respect of the entitlement arising following the reinstatement of the employment relationship and linked to the length of employment, the period between the termination and reinstatement of the employment relationship shall be regarded as time spent in employment. The employee's outstanding wages and other emoluments shall be paid as well as the damages in excess of these. The employee's absentee pay shall also be taken into consideration as part of the outstanding wages. [Section 83(2) and (3) of the Labour Code]

In accordance with the above, Section 83 contains the option of the sanction of reinstatement. Besides the fact that the court obliges the employer to pay compensation for the employee's damage, the employee may request continued employment in his/her original position.

The legal act prescribing the obligation involving labour inspection (relating legal act) is the Labour Code, and the substantive provisions allocated to the inspection issues mentioned in Section 3(1) of Act LXXV of 1996 on labour inspection (hereinafter referred to as Labour Inspection Act). Section 6/A of the Labour Inspection Act contains the cases of mandatory labour fines. The amount of the labour fine can vary between HUF 30,000 and HUF 20 million.
Section 3(1)g) of the Labour Inspection Act records the following in respect of the protection of collective rights:

Labour inspection shall cover the verification of the amount of the wages determined in a legal act, a collective agreement, or a collective agreement extended by the Minister to the sector or subsector, and compliance with the provisions relating to the protection of wages.

ARTICLE 6: THE RIGHT TO BARGAIN COLLECTIVELY

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1. to promote joint consultation between workers and employers;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In recognition of the role of economic and social dialogue and of the diverse consultation mechanism, the Parliament adopted Act XCIII of 2011 on the National Economic and Social Council (hereinafter referred to as NGTT Act) in July 2011.

With the establishment of the National Economic and Social Council (hereinafter referred to as NGTT), it has become possible to operate a much wider and more diverse consultation mechanism than ever. The main aspects of operation include openness, transparency and widespread consultation. The new consultation mechanism also incorporates social partners, which have not participated previously in the consultations organised within an institutionalised framework. The aim of the operation of the NGTT is to present and channel the interests of all economic operators and social groups concerned in the widest possible scope.

The provisions of the Act were amended with a view to Act XLV of 2016 amending the NGTT Act, the provisions of which enter into force as of 21 May 2016. Pursuant to this Act, the organisation was expanded with the representatives of arts both in and outside Hungary, and a change was introduced according to which the rotating President is elected for a term of six months, and the Council can determine the number of plenary sessions.

The Council is the forum for national reconciliation of interests

The NGTT Act stipulates that the NGTT shall be a consultative, proposal-making and advisory body independent from Parliament and the Government, established to discuss comprehensive matters affecting the development of the economy and society, and national strategies across government cycles, and to promote the development and implementation of harmonious and balanced economic development and the related social models. Also, it shall be the most extensive and diverse consultative forum for social dialogue between the advocacy groups of employers and employees, business chambers, NGOs active in the field of national policy, Hungarian representatives of academia and the arts both in and outside Hungary, and churches defined by a special Act. [Section 2(1) of the NGTT Act]

The NGTT's responsibilities:

Within its competence of performing consultation, giving opinions and making proposals, the NGTT shall monitor and analyse the socio-economic development of Hungary, elaborate proposals for Parliament and the Government for the solution of

comprehensive macro-economic and social problems, discuss government strategies and schemes in terms of employment policy, the labour market, the distribution of revenues affecting society at large, and basic issues related to the economy, employment, the changes in revenues and social policy. It shall give opinions on the proposed Government measures which directly affect businesses, employment and society at large, participate in the exploration of the effects of laws and other Government decisions, and shall inform the Government accordingly, engage in consultations on strategic matters related to the European Union, discuss any matter of national policy or social policy which the Council puts on its agenda upon recommendation of two-thirds of its members.

The Speaker of the House, the Chairpersons of Parliament Commissions, the Government or Government members may request the Council for a position or opinion, and the Council is obliged to grant such request within 30 days, and make a verbal presentation of such position or opinion before the competent Parliament Commission at its request.

The addressees must consider the NGTT's proposals, and inform the NGTT about the result of such consideration.

Members of the NGTT:

The members of the NGTT are organisations defined in Section 4(1) of the NGTT Act, which participate in the work of the NGTT through their representatives and delegates (hereinafter altogether: representatives). The members of the Council shall constitute sides.

The Council shall be comprised of the following sides:

1. representatives of the economy,
   a) presidents of the national advocacy groups and organisations of employers as defined by the present Act,
   b) presidents of national business chambers,
   c) representatives of NGOs under the Association Act, which, according to their deeds of foundation, aim to represent interests related to the economy, and the members of which have a considerable market share or economic weight in their fields of activity, and their participation is approved by the members under points a) and b);

2. presidents of the national advocacy groups and organisations of employees as defined by the present Act,

3. representatives of NGOs under the Association Act, including NGOs active in the field of national policy,

4. representatives of the academia,
   a) the President of the Hungarian Academy of Sciences,
   b) two representatives delegated by the Hungarian Academy of Sciences,
   c) a representative of Hungarian scientific life outside Hungary delegated by the Hungarian Academy of Sciences,

d) the president and one representative of the Hungarian Rectors' Conference,
e) two representatives delegated by the Hungarian Society of Economics,

5. representatives of the arts,
a) the president of the Hungarian Academy of Arts,
b) two representatives delegated by the Hungarian Academy of Arts,
c) a representative of Hungarian arts outside Hungary delegated by the Hungarian Academy of Arts,

6. representatives of those four religious communities which, through their experiences based on their historic and social role, social acceptance, social integration, organisational know-how and the public benefit activities traditionally practiced by these communities – as well as peculiarities of the public benefit activities carried out in cooperation with other organisations – are the most significant. [Section 4(1) of the NGTT Act]

The mandate of members shall be valid for four years, and the starting date of the mandate shall be the date of the first plenary session of the new Council. The mandate of the representatives can be renewed. If the mandate of a representative terminates before the termination date, the mandate of the newly commissioned representative shall last until the remaining time of the original representative. The members shall not be remunerated for their work within the Council.

The members of the Council may exclusively be presidents of the national advocacy groups and organisations of employers, and presidents of the national advocacy groups and organisations of employees, who comply with the criteria set out in the NGTT Act.

For the purposes of the NGTT Act, advocacy groups and organisations shall be NGOs established under Act V of 2013 on the Civil Code (hereinafter referred to as Civil Code) and the Association Act, with the primary objective, according to their by-laws, to promote and protect the interests of employees related to employment, or whose objectives defined by their by-laws include the protection and representation of interests of employers related to employment.

Advocacy groups shall be called national if, in addition to the criteria defined by point 1(a) and point 2 of Section 4(1) of the NGTT Act, their membership is comprised by trade unions and federations of trade unions, or advocacy groups and organisations or federations of employers, and they organise their activity at a national level. For the purposes of this article, an affiliated organisation shall mean advocacy groups and organisations or federations of employers which comprise trade unions, or federations of trade unions.

Participation in the NGTT's activities shall be open to
a) federations of trade unions
(aa) which have affiliated organisations active in at least four branches and at least twelve sub-branches of national economy, and
(ab) which have affiliated organisations in at least eight counties or whose affiliated organisations have territorial or county organisations, and

(ac) whose affiliated organisations jointly have individual workplace organisations with at least one hundred and fifty employers or such that comply with the by-laws of the affiliated organisation, and

b) federations of employers
(ba) which have affiliated organisations in at least two branches and at least six sub-branches of national economy, and
(bb) whose affiliated organisations have territorial organisations in at least ten counties, and
(bc) whose membership, or that of its affiliated organisations, comprises at least one thousand employers and businesses, or whose membership, or that of its affiliated organisations employ at least one hundred thousand people.

In order to meet the criteria, the advocacy groups of employees and employers may form coalitions.

Following the entry into force (21 May 2016) of Act XLV of 2016 amending the NGTT Act (hereinafter referred to as Amending Act), the obligation for trade unions to be a member of the European Trade Union Confederation and the obligation for advocacy groups of employers to be a member of any European federation of employers do not have to be taken into account in relation to the membership criteria of the Council.

The above mentioned two points of the NGTT Act were deleted because the European federation of employers could not be interpreted, and consequently, the employer and employee side returned to balance with the deletion of the two points.

Organisations, which meet the membership criteria of this act, but do not participate in the work of the NGTT through their representatives, may apply for participation, upon submitting the documents verifying their eligibility as well as the name of the appointed representative to the president. The detailed procedural rules of examining whether the membership criteria are fulfilled are laid down in the organisational and operational rules of the NGTT.

Members shall immediately inform the presidency and secretariat of the NGTT, if they do not comply with the criteria laid down in this act. The secretariat of the NGTT shall immediately delete the member from the registry of membership.

Permanent invitees of the NGTT's plenary sessions:

The Ministers or state executives appointed by them shall attend the NGTT's plenary sessions as permanent guests with a consultative right. The President or Vice President of the Hungarian Competition Authority and the Central Statistical Office shall attend the Council's plenary sessions as guests with a consultative right.

Also following the entry into force of the Amending Act, members of the Hungarian national delegation of the three sides ("employers'", "workers'" and "various interests' groups") of the European Economic and Social Committee shall attend the NGTT's plenary sessions as guests with a consultative right.

The President of the Council:

The rotating President of the NGTT, who shall be elected from the representatives of the sides, shall be responsible for the tasks related to the operation, convening, chairing and representation of the NGTT's sessions.

The sides providing the rotating President shall take turns in the order set out in Section 4(1) of the NGTT Act every six months. The side holding the rotating Presidency shall nominate a rotating President from among its own members.

The work of the NGTT shall be assisted by the presidency, which is responsible for carrying out the annual work plan of the NGTT. The presidency is composed of the President, the President preceding the current president and the President succeeding the current president. The presidency, together with two representatives of the sides each, shall examine the existence of the fulfilment of the membership criteria. [Section 6/A(1) to (2) of the NGTT Act]

The working regime and operation of the NGTT:

The NGTT shall perform its work at plenary sessions. The plenary session shall be convened by the president as necessary but at least two times a year. The plenary session must also be convened at the written request of at least two sides or at least one third of the members. [Section 7(1) of the NGTT Act]

In the matters on its agenda, the NGTT's plenary session shall engage in consultation and, accordingly give opinions, adopt positions, make proposals, adopt recommendations, take decisions on its own operation.

The NGTT's work shall be assisted by the Secretariat. The personal and physical conditions of the Secretariat shall be provided by the Minister responsible for the development of the social and civil relations (hereinafter "Minister"). The Secretariat shall keep a register of the members of the NGTT.

The Secretariat shall be an organisational unit separated from the NGTT, responsible for coordination tasks. Accordingly, it shall promote the administrative and informative tasks related to the NGTT's operation, provide the infrastructure required for the NGTT's operation, and prepare and organise the NGTT's meetings. [Section 7(5) of the NGTT Act]

The members of the NGTT shall adopt united positions on each side. In the event of decision-making, each side of the NGTT shall have one vote. Unless otherwise provided for by the NGTT' Regulation of Organisation and Operation (hereinafter referred to as Regulation), the NGTT shall make decisions by simple majority.

The NGTT shall determine its Regulation, other regulations and working plans. The adoption and amendment of the Regulation shall be subject to a two-thirds majority vote of the NGTT's members.

If the sides of the NGTT do not meet the criteria for nominating delegates, as laid down in the legal acts, even after thirty days following the termination of the deadline for delegation, the NGTT shall be entitled to appoint the delegates.

Within the NGTT, permanent working groups or ad hoc professional working groups, responsible for certain tasks (hereinafter jointly referred to as “professional working groups”), may operate. The professional working groups are responsible for the preparation of the plenary work, for formulating the problems and questions related to the discussed topic, for preparing the united statement, and for noting dissenting opinions.

The NGTT shall prepare a report on its activity carried out in the previous year by 31 March, and publish it on the Government’s website.

The opinions, positions, proposals and recommendations of the NGTT shall be published on the Government’s website. The Minister shall, by 31 March every year, prepare a report on how the opinions, positions and recommendations of the NGTT in the previous year were made use of in the legislation and the work of the Government. [Section 8(3) of the NGTT Act]

Mandatory consultation:

Law prescribes mandatory consultation or cooperation with the NGTT in 2016 in the following cases:

1. Act I of 2012 on the Labour Code

Contents of the consultation or cooperation:
The Government shall decree – following consultations in the NGTT – the amount and scope of the mandatory minimum wage and the guaranteed wage minimum, and the expected level of pay increases deemed necessary to preserve the net value of wages below HUF 300,000 gross, and the level of non-wage benefits that can be taken into consideration within that framework, and the detailed rules relating to the expected level of pay increases.

2. Act CLXXXVII of 2011 on vocational education and training

The national and county reconciliation of interests about vocational education and training are as follows pursuant to Act CLXXXVII of 2011 on vocational training.

The reconciliation of interests in the national strategic matters of vocational training shall be organised within the framework of the NGTT and the National Council of Vocational Training and Adult Education. One representative from each (altogether two) of the national organisations of employees and employers having representation in the NGTT shall be, *inter alia*, the member of the National Council of Vocational Training and Adult Education.

The National Committee for Qualifications shall be a consultative, proposal-making professional body for the continuous development and modernisation of the content structure of vocational training. It shall monitor continuously the development of the vocational training structure, the economic, labour market, technical and technological developments, and on this basis it may propose the modification of the National Qualification Register in accordance with the provisions of the government decree on the amendment rules of the National Qualification Register. It shall be

composed of thirty members, including the minister responsible for vocational training and adult education, the minister responsible for education, the economic chamber, the national economic representative associations and the representatives delegated by the professional chambers concerned with the whole sector.

The development and training committees of the counties shall be the consultative, opinion-expressing, proposing and advisory bodies of the capital and the county established for the development of vocational training and enforcement of labour market needs, which shall be composed of the representatives of national associations of employees and employers having representation in the NGTT and the federations thereof (two members), of territorial economic chambers (two members) and of capital and county government offices acting in their employment competence (one member).

3. Act LXXIV of 2009 on dialogue committees at sectoral level and on certain issues of intermediate level social dialogue

Contents of the consultation or cooperation:
The minister may, after requesting the opinion of the representatives of the national advocacy groups and organisations of employers and employees set out in the NGTT Act and the competent sectoral minister, extend the scope of the rules of the collective agreement concluded within the Sectoral Dialogue Committee concerning the rights and obligations arising from employment relationships, their practice and fulfilment, as well as the order of the relevant procedures to the employers categorised into this sector by main business activity.

The Government shall establish the content of the ballot paper of the works council elections and the method and order of vote-counting, seeking the opinion of the national federations of trade unions participating in the NGTT and the dialogue committees at sectoral level, in a decree.

4. Act XXXIX of 1998 on the state supervision of social security funds and social security organisations

Contents of the consultation or cooperation:
The Pension Insurance Controlling Body may, and upon request it shall provide information concerning its activities annually to the NGTT.

The Pension Insurance Controlling Body shall have 11 members. Three members shall be proposed by the national advocacy groups and organisations of employers having representation in the NGTT and three by the national advocacy groups and organisations of employees having representation in the NGTT, three by the Government and two by the Council for Senior Citizens.

The forum for national reconciliation of interests of the private sector is the Permanent Consultation Forum of the private sector and the Government (hereinafter referred to as "Permanent Forum").

The duties and operation of the Permanent Forum has not changed in the reporting period.

The members of the Permanent Forum have changed in that the National Confederation of Hungarian Trade Unions (MSZOSZ) has been replaced by the Hungarian Trade Union Confederation (MASZSZ).

In the period under review, the issues about wage recommendation, the amendment of the Labour Code, the strengthening of wage transparency for the mitigation of wage differences between sexes, the establishment of the new system for handling risks to health, the amendment of the strike act, the draft bill on the annual amendment of tax laws, the agreement on the minimum wage of the given year and the guaranteed wage minimum have all been included, *inter alia*, in the working plan of the monitoring committee of the Permanent Forum.

Bipartite sectoral social dialogue – dialogue committees at sectoral level

Act LXXIV of 2009 on dialogue committees at sectoral level and on certain issues of intermediate level social dialogue (hereinafter referred to as Dialogue Act) entered into force on 20 August 2009, which established the framework of the institutional system of sectoral dialogue. Until 31 December 2009, the dialogue committees at sectoral level operated according to the agreement concluded on 22 September 2004 on the conditions and order of operation of dialogue committees at sectoral level in the period until the adoption of legal regulations. After 2010 and five years later, in 2015 the dialogue committees at sectoral level (hereinafter referred to as SDC) were re-established pursuant to the Dialogue Act.

The Dialogue Act brought serious progress to the development of sectoral social dialogue, in view of the fact that the regulated deployment of the institutional system of sectoral social dialogue serves as an adequate basis for the joint action of advocacy groups of employers and employees in a given sector to develop said sector, and for autonomous decision-making on the rules of conduct in the sector.

SDCs shall mean the bilateral social dialogue body operating with the participation of sectoral advocacy groups of employers (hereinafter “employer side”) and sectoral trade unions (hereinafter “employee side”) in issues of sectoral importance concerning works relations and employment relationships. [Section 2(2) of the Dialogue Act]

The SDC is bilateral forum: its members shall be advocacy groups of employers and employees of the sector. The fundamental principle of the operation of SDCs shall be no relevant organisation of employers or employees of a given sector should be excluded from consultation, but the representative organisations having greater support should have a decisive influence on decision-making and conclusion of collective agreements, while extended sectoral collective agreements may only be concluded with the participation of the vast majority of the sector.

In 2016, decisions were made in the case of 19 SDCs about their lawful establishment, and termination decisions were made in the case of 7 SDCs (Metallurgical SDC, Meat Industry AlSDC, Private Investigator A1SDC, Security Services A1SDC, Personal security A1SDC, Pharmaceutical A1SDC, Spa Services classSDC). In 2017, 60 advocacy groups participated in the work of SDCs, of which 34 were employer advocacy groups and 26 trade unions. The advocacy groups

established 17 division, 4 group, 1 class and 1 inter-sectoral — altogether 23 — dialogue committees.

Sectoral dialogue committees (with group and class committees) and participating social partners

Employer side	Employee side
1. MINING SECTORAL DIALOGUE COMMITTEE	
- Hungarian Mining Association	- Trade Union of Mine, Energy and Industry Workers
2. FOOD INDUSTRY SECTORAL DIALOGUE COMMITTEE	
- National Association of Food Processors	- Food Workers' Trade Union - Agricultural, Forestry and Water Management Workers' Trade Union
2.1 BAKERY, CONFECTIONERY INDUSTRY CLASS DIALOGUE COMMITTEE	
- Hungarian Baker Association - Association of Hungarian Confectionery Manufacturers	- **BAKERY, CONFECTIONERY WORKERS' COALITION** Members: ~ Bakery Workers Trade Union ~ Confectionery Workers' Trade Union
3. CONSTRUCTION INDUSTRY SECTORAL DIALOGUE COMMITTEE	
- National Federation of Hungarian Building Contractors - Hungarian Association of Craftsmen's Corporation	- Federation of Building, Wood and Material Workers' Unions
3.1 CONSTRUCTION MATERIAL INDUSTRY GROUP DIALOGUE COMMITTEE	
- Hungarian Association of Building Materials and Construction Products	- Federation of Building, Wood and Material Workers' Unions
4. WOOD, FURNITURE INDUSTRY AND FORESTRY SECTORAL DIALOGUE COMMITTEE	
- Hungarian Federation of Forestry and Wood Industries - National Association of Carpenters and Wood Workers	- Trade Union of Forestry and Wood Workers
5. MACHINERY SECTORAL DIALOGUE COMMITTEE	
- Association of Hungarian Automotive Component Manufacturers - Hungarian National Association of Machinery and Power Engineering Industries - National Association of Entrepreneurs and Employers	- Hungarian Metalworkers' Federation - LIGA Metal and Iron Industry Association - National Association of Workers' Councils in Metal- and Machinery Industries
6. INFORMATION TECHNOLOGY AND COMMUNICATION SECTORAL DIALOGUE COMMITTEE	
- ICT Association of Hungary - Hungarian Cable Communications Association	- Federation of Trade Unions of Hungarian Posts and Communications Employees - Hungarian Metalworkers' Federation
7. COMMERCE SECTORAL DIALOGUE COMMITTEE	
- Hungarian National Federation of Consumer Co-operative Societies and Trade Associations - National Federation of Traders and Caterers - Hungarian Trade Association	- Trade Union of Commercial Employees
8. LIGHT INDUSTRY SECTORAL DIALOGUE COMMITTEE	
- Association of Hungarian Light Industry	- Trade Union of Mine, Energy and Industry Workers
9. ROAD TRANSPORT SERVICE PROVIDERS GROUP DIALOGUE COMMITTEE	
- National Ass of Forwarding Entrepreneurs - Hungarian Road Transport Association - Federation of National Private Transporters - Association of Road Transport Companies	- Public Road Transport Trade Union - European Trade Union of Freight Transport Workers
10. AIR TRANSPORT SECTORAL DIALOGUE COMMITTEE	
- Hungarian Rail, Waterways and Air Transport Association	- Hungarian Civil Air Transport Association
11. PRIVATE SECURITY SECTORAL DIALOGUE COMMITTEE	
- Employers' Association of Hungarian Security Companies	- Federation of the Property Protection Trade Unions
12. AGRICULTURAL SECTORAL DIALOGUE COMMITTEE	
- National Federation of Agricultural Cooperatives and Producers	- Agricultural, Forestry and Water Management Workers' Trade Union
13. PRINTING SECTORAL DIALOGUE COMMITTEE	
- Federation of Hungarian Printers and Paper Makers	- National Union of Printing Workers
14. POSTAL SECTORAL DIALOGUE COMMITTEE	
- Magyar Posta Zrt.	- Postal Trade Union - Independent Trade Union of Postal Workers
15. REHABILITATION DIALOGUE COMMITTEE	
- National Association of Protected Organisations	- Local Industry and Municipality Workers' Union 2000
16. URBAN SERVICES SECTORAL DIALOGUE COMMITTEE	
- Hungarian Public Service Providers' Association	- Local Industry and Municipality Workers' Union 2000
17. TOURISM AND HOSPITALITY SECTORAL DIALOGUE COMMITTEE	
- Hungarian Hospitality Employers' Association	- Trade Union of Hotel, Catering and Tourism
18. RAIL TRANSPORT GROUP DIALOGUE COMMITTEE	
- Hungarian Rail, Waterways and Air Transport	- Free Trade Union of Railway Workers

Employer side	Employee side
Association	- Free Trade Union of Engineers and Technicians
19. CHEMICAL INDUSTRY SECTORAL DIALOGUE COMMITTEE	
- Hungarian Chemical Industry Association - Hungarian Pharmaceutical Manufacturers' Association	- Federation of Trade Unions of the Chemical, Energy and Allied Workers
20. ELECTRICITY GROUP DIALOGUE COMMITTEE	
- Alliance of Electricity Sectors Employers' Associations	- Trade Union Federation of Electricity Workers' Unions - Trade Union of Mine, Energy and Industry Workers
21. WATER UTILITY SECTORAL DIALOGUE COMMITTEE	
- Hungarian Water Utility Association	- Federation of Public Service Trade Unions in the Water Supply

There was no change in the regulations concerning SDCs during the reporting period, thus, the regulations mentioned in the previous report are still applicable.

B. Rules applicable to public service officials

The reconciliation of interests in public service are pursued in two levels, therefore we differentiate between central reconciliation of interests and reconciliation of interests at the workplace. The head of the state administration body and the elected official of the trade union participate in the reconciliation of interests at the workplace, but the negotiating parties may invite experts to solve disputed issues.

Sections 195 to 202 of Act CXCIX of 2011 on Public Service Officials (hereinafter referred to as Public Service Officials Act) contain unchanged the uniform rules on central reconciliation of interests and reconciliation of interests at the workplace governing public service officials. The Interest Reconciliation Forum for Civil Servants (hereinafter referred to as KÉF) still continues to operate, the aim of which is reconcile the interests of public administrative bodies and public service officials, to resolve disputed issues via negotiations, and to elaborate adequate arrangements with the participation of the negotiation groups of the Government, the national advocacy groups of local governments and the national employee advocacy groups of government officials and civil servants. Section 196(1)(b) of the Public Service Officials Act expressly determines the definition of consultation, which means the exchange of views and establishment of dialogue between the employer and the trade union. It also sets out that consultation shall take place with a view to reaching an agreement, in such fashion as consistent with the objective thereof and ensuring the proper representation of the parties, the direct exchange of views and establishment of dialogue, and substantive discussions.

Pursuant to Section 198 of the Public Service Officials Act, within the framework of central reconciliation of interests, from the subject matters of living and working conditions and employment conditions of government officials and civil servants, the issues relating to the management of administrative workforce and personal allowances shall be subject to the consultation powers of KÉF. In all other cases, which do not concern the living and working conditions and employment conditions of government officials and civil servants, KÉF shall be entitled to request information and make proposals.

Pursuant to Section 199 of the Public Service Officials Act, the National Public Servant Interest Reconciliation Council (hereinafter referred to as OKÉT) is the

central interest reconciliation forum for not only public employees and professional members of the law enforcement agencies, but public service officials as well.
The interest reconciliation at the workplace for government officials serves to resolve workplace issues relating to government service. The head of the state administration body and the elected official of the trade union participate in the reconciliation of interests at the workplace. The negotiating parties may invite experts to solve disputed issues. [Section 200(1) Public Service Officials Act]

In the period under review, OKÉT pursued, *inter alia*, consultations about the developments of public service wage systems and salaries of the given year, the effects of raising the minimum wage and the guaranteed wage minimum and the developments of the compensation system in the public sector.

No change occurred in the rules concerning entities subject to Act XXXIII of 1992 on the legal status of public employees in the period under review.

C. Rules governing the professional members of the armed forces

Act XLII of 2015 on the Service Status of Professional Members of Law Enforcement Agencies (hereinafter referred to as new Service Act) entered into force on 1 July 2015.

The new Service Act contains various provisions concerning both the Hungarian Law Enforcement Body (hereinafter referred to as MRK) and trade unions, which ensure consultation between workers (professional members of the law enforcement agencies) and employers as follows.

- **Trade unions** [Section 313(1) to (5), Section 311(1), Section 316, Section 317 of the new Service Act]

The designated representative of the law enforcement agency and the elected official of the trade union participate in the reconciliation of interests relating to the service at the law enforcement agency. The negotiating parties may invite experts to solve disputed issues. The director general responsible for staff table shall disclose his position on the comments or proposals of the trade union and his response to the information within 30 days in writing with giving reasons.

The trade union may request information from the law enforcement agency about the economic and social interests relating to the service of the professional members of the law enforcement agencies. In this respect, information shall mean transmission of information as related to service in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations.

The trade union may disclose its opinion on the employer’s action, decision or the draft thereof concerning the professional member of the law enforcement agency with the law enforcement agency. A trade union is entitled to inform the professional members of the law enforcement agencies about issues related to interest reconciliation and service. The law enforcement agency, after consulting with the trade union, shall ensure the possibility for the trade union to disclose information

relating to its activity at the law enforcement agency as customary at the place of service or in any other satisfactory manner. The person acting in representation of the trade union and not in service may enter the premises of the law enforcement agency during working hours, if the trade union has a member in service of the law enforcement agency. When entry and staying at the premises of the law enforcement agency, the person acting in representation of the trade union shall comply with the operational rules of the law enforcement agency.

The National Public Servant Interest Reconciliation Council is the interest reconciliation forum for persons in service as well.

- **Hungarian Law Enforcement Corps** [Section 292(4), points 1 to 6 and 12, Section 292(5) and (6), Section 306 of the new Service Act]

The activity of the Hungarian Law Enforcement Corps (hereinafter referred to as MRK) must also be highlighted in relation to this subject matter, which is the public body of the professional personnel, and all professional personnel are members of the MRK by virtue of the law from the commencement of professional service.

The MRK, *inter alia*,

a) has the right to make proposals to improve the quality of the activities of law enforcement agencies;
b) may initiate with the Government through the minister the modification of working and employment conditions of its members, and the drafting of legislation on practising the profession;
c) collaborates with consultation rights in the drafting of legislation, which influences the employment of its members and their professional practice, relates to the mandatory professional examinations and concerns the MRK;
d) shall be requested to give opinion on issues related to the service or public employee relationship;
e) may initiate with the minister the alteration of the practice related to the service or public employee relationship that violates the law;
f) exercises right of submission in any issues concerning its functions and competences;
g) may initiate the award of prizes or other acknowledgement with the Government — through the minister —, with the minister, with the director general and the national director general.

The head of the law enforcement agency shall request the opinion of the MRK on rules and regulations within the functions delegated to it on the performance of service or work, period of performance of service or working time, resting time, remuneration and allowances of the professional personnel. The MRK may give opinion on the employer's action, decision or the draft thereof concerning a group of its members and may initiate consultation in this context.

The MRK, in any issues concerning its functions and competences, turn to the head of the state body having competence in the given matter, and

a) may request information, data, or position in professional issues and issues related to the interpretation of law;
b) may make proposals, initiate measures; and

c) may give its opinion in relation to the operation of the body under its control or a law, legal instrument of state administration or other decision issued by such body which concern a group of members of the MRK, or initiate the modification or revocation thereof. The addressed body shall give substantive response to the address within thirty days. If the information, response or measure does not fall under the competence of the addressed body, such body shall transfer the address within three days to the body having competence, and shall at the same time inform the holder of the rights thereof.

- **Interest Representation Council of the Law Enforcement Sector** [Section 308 of the new Service Act]

The minister shall consult with the sectoral interest representation council in professional issues of sectoral importance that concern the service relationship with the law enforcement agency. The sectoral interest representation council shall operate with the participation of the minister, the director general, and the consulting council acting in representation of the MRK. The sectoral interest representation council shall be convened in the order and frequency set out in the agreement between the participants.

The subject matters of living and working conditions and employment conditions of the employed professional (and public employee) personnel, as well as the subject matters falling under the competence of the MRK by virtue of this law shall fall under the competence of the sectoral interest representation council. The sectoral interest representation council shall be entitled to request information and make proposals in other issues falling under its competence.

Furthermore, the Act stipulates that the provisions on the sectoral interest representation council do not exclude the founding of lower level interest reconciliation fora.

Pursuant to Act CCV of 2012 on the legal status of private soldiers (hereinafter referred to as Private Soldiers Act), information shall mean the transmission of information in the system of relationships between the Defence Forces and the trade union

a) as related to service in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations,
b) interest reconciliation shall mean exchange of views and dialogue, which shall take place in such fashion as consistent with the objective thereof and ensuring the proper representation of the parties, the direct exchange of views, substantive discussions and the possibility to reach an agreement. [Section 27(5) of the Private Soldiers Act]

2) KEY DATA, STATISTICS

Employees between 15 and 64 according to number of persons working on the site, sections and whether there is a valid collective agreement in force at the workplace, Q2 of 2015*

		Collective agreement is in force							
		Yes	No	Don't know	Altogether	Yes	No	Don't' know	Altogether
		Number of persons				%			
Number of workers on the place of business									
Altogether									
A	Agriculture, forestry, fishing	6 787	108 322	26 075	141 184	4,8	76,7	18,5	100,0
B	Mining, quarrying	3 046	4 186	3 069	10 301	29,6	40,6	29,8	100,0
C	Manufacturing industry	168 009	445 191	218 691	831 891	20,2	53,5	26,3	100,0
D	Electricity, steam and gas supply, air-conditioning	14 989	10 840	7 454	33 283	45,0	32,6	22,4	100,0
E	Water supply, wastewater collection and treatment, waste management, remediation	14 322	23 155	14 214	51 691	27,7	44,8	27,5	100,0
F	Construction industry	12 621	152 293	45 836	210 750	6,0	72,3	21,7	100,0
G	Trade, motor vehicle service	40 615	325 021	78 623	444 259	9,1	73,2	17,7	100,0
H	Transport, storage	87 448	96 845	54 264	238 557	36,7	40,6	22,7	100,0
I	Accommodation service,, catering trade	7 777	125 438	27 635	160 850	4,8	78,0	17,2	100,0
J	Information technology, communication	14 671	57 334	15 058	87 063	16,9	65,9	17,3	100,0
K	Monetary, insurance activity	15 168	42 615	16 138	73 921	20,5	57,6	21,8	100,0
L	Property transactions	1 492	9 779	2 348	13 619	11,0	71,8	17,2	100,0
M	Professional, scientific, technical activities	10 078	74 716	13 014	97 808	10,3	76,4	13,3	100,0
N	Administration and service supporting activities	15 890	88 955	30 307	135 152	11,8	65,8	22,4	100,0
O	Public administration, defence; mandatory social insurance	111 265	198 306	103 408	412 979	26,9	48,0	25,0	100,0
P	Education	120 127	129 341	59 712	309 180	38,9	41,8	19,3	100,0
Q	Human health, social service	86 560	107 456	64 534	258 550	33,5	41,6	25,0	100,0
R	Art, entertainment, leisure	14 399	36 754	15 754	66 907	21,5	54,9	23,5	100,0
S	Other service	4 605	47 162	7 040	58 807	7,8	80,2	12,0	100,0
	Total	**749 869**	**2 083 709**	**803 174**	**3 636 752**	**20,6**	**57,3**	**22,1**	**100,0**
Number of workers on the place of business is between 1-49									

A	Agriculture, forestry, fishing	4 382	84 691	19 770	108 843	4,0	77,8	18,2	100,0
B	Mining, quarrying	1 766	2 697	1 983	6 446	27,4	41,8	30,8	100,0
C	Manufacturing industry	40 678	214 262	79 964	334 904	12,1	64,0	23,9	100,0
D	Electricity, steam and gas supply, air-conditioning	2 577	4 323	2 694	9 594	26,9	45,1	28,1	100,0
E	Water supply, wastewater collection and treatment, waste management, remediation	6 234	15 536	8 682	30 452	20,5	51,0	28,5	100,0
F	Construction industry	6 951	131 995	37 619	176 565	3,9	74,8	21,3	100,0
G	Trade, motor vehicle service	25 823	277 282	58 436	361 541	7,1	76,7	16,2	100,0
H	Transport, storage	39 265	65 520	32 690	137 475	28,6	47,7	23,8	100,0
I	Accommodation service,, catering trade	4 793	113 623	24 412	142 828	3,4	79,6	17,1	100,0
J	Information technology, communication	5 780	39 823	9 917	55 520	10,4	71,7	17,9	100,0
K	Monetary, insurance activity	8 652	29 243	10 769	48 664	17,8	60,1	22,1	100,0
L	Property transactions	726	7 729	2 036	10 491	6,9	73,7	19,4	100,0
M	Professional, scientific, technical activities	5 166	67 104	10 993	83 263	6,2	80,6	13,2	100,0
N	Administration and service supporting activities	7 368	69 895	21 612	98 875	7,5	70,7	21,9	100,0
O	Public administration, defence; mandatory social insurance	42 068	121 807	60 985	224 860	18,7	54,2	27,1	100,0
P	Education	71 457	97 514	44 381	213 352	33,5	45,7	20,8	100,0
Q	Human health, social service	36 127	74 235	34 451	144 813	24,9	51,3	23,8	100,0
R	Art, entertainment, leisure	8 298	29 079	12 338	49 715	16,7	58,5	24,8	100,0
S	Other service	3 419	45 004	5 505	53 928	6,3	83,5	10,2	100,0
	Total	**321 530**	**1 491 362**	**479 237**	**2 292 129**	**14,0**	**65,1**	**20,9**	**100,0**
Number of workers on the place of business is 50 or more									
A	Agriculture, forestry, fishing	2 405	23 631	6 305	32 341	7,4	73,1	19,5	100,0
B	Mining, quarrying	1 280	1 489	1 086	3 855	33,2	38,6	28,2	100,0
C	Manufacturing industry	127 331	230 929	138 727	496 987	25,6	46,5	27,9	100,0
D	Electricity, steam and gas supply, air-conditioning	12 412	6 517	4 760	23 689	52,4	27,5	20,1	100,0
E	Water supply, wastewater collection and treatment, waste management,	8 088	7 619	5 532	21 239	38,1	35,9	26,0	100,0

	remediation								
F	Construction industry	5 670	20 298	8 217	34 185	16,6	59,4	24,0	100,0
G	Trade, motor vehicle service	14 792	47 739	20 187	82 718	17,9	57,7	24,4	100,0
H	Transport, storage	48 183	31 325	21 574	101 082	47,7	31,0	21,3	100,0
I	Accommodation service,, catering trade	2 984	11 815	3 223	18 022	16,6	65,6	17,9	100,0
J	Information technology, communication	8 891	17 511	5 141	31 543	28,2	55,5	16,3	100,0
K	Monetary, insurance activity	6 516	13 372	5 369	25 257	25,8	52,9	21,3	100,0
L	Property transactions	766	2 050	312	3 128	24,5	65,5	10,0	100,0
M	Professional, scientific, technical activities	4 912	7 612	2 021	14 545	33,8	52,3	13,9	100,0
N	Administration and service supporting activities	8 522	19 060	8 695	36 277	23,5	52,5	24,0	100,0
O	Public administration, defence; mandatory social insurance	69 197	76 499	42 423	188 119	36,8	40,7	22,6	100,0
P	Education	48 670	31 827	15 331	95 828	50,8	33,2	16,0	100,0
Q	Human health, social service	50 433	33 221	30 083	113 737	44,3	29,2	26,4	100,0
R	Art, entertainment, leisure	6 101	7 675	3 416	17 192	35,5	44,6	19,9	100,0
S	Other service	1 186	2 158	1 535	4 879	24,3	44,2	31,5	100,0
	Total	**428 339**	**592 347**	**323 937**	**1 344 623**	**31,9**	**44,1**	**24,1**	**100,0**

Source: *Central statistical Office (hereinafter referred to as SCO)*

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake...

2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to

the regulation of terms and conditions of employment by means of collective agreements;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

There was no change in legislation in the reporting period.

B. Rules governing public employees

With the entry into force of Act I of 2012 on the Labour Code (hereinafter referred to as Labour Code), with the purpose of establishing compliance between the Labour Code and Act XXXIII of 1992 on the legal status of public employees (hereinafter referred to as Public Employees Act), the derogating provisions of Sections 8 to 12/A of the Public Employees Act on trade union rights and collective agreement were repealed with effect from 1 July 2012. Consequently, the cited provisions of the Labour Code shall be governing in the subject of the capability to conclude collective agreements in a public employee relationship.

Section 13 of the Public Employees Act provides for the possibility of derogation in case of collective agreement rules in the context of the relevant provisions of the Labour Code as follows:

With respect to the public employee relationship, Section 277(1) and (2) of the Labour Code shall apply with the exception that derogations from the provisions of this act and decrees issued under the authorisation of this act in the collective agreement are allowed only if authorised by these pieces of legislation.

From 20 December 2016, the legislator allowed for the extension of collective agreements in the healthcare sector to employers classified into the healthcare sector by main business activity in accordance with the rules of Section 19/B of Act LXXXIV of 2003 on Certain Aspects of Performing Healthcare Activities (hereinafter referred to as Healthcare Act).

Having regard to the significant share of state-owned service providers in the healthcare sector, the legal institution of extending the collective agreement served the purpose of defining uniform working conditions for the whole sector.

The collective agreements concluded and extended on this basis establish the possibility to prevent differences in employment conditions within the healthcare sector. Having regard to the fact that the majority of healthcare providers are owned by the state, the legal provision on expansion differs from the expansion regulated in the legislation in force in the private sector, which is regulated by the Dialogue Act.

By establishing this legal institution, it has become possible legally that the rights and obligations, their exercise and fulfilment, as well as the scope of the rules of the relevant procedures set out in the collective agreements concluded with one or more employers in the healthcare sector are extended to the employers categorised into a

given healthcare sector/sub-branch/class by main business activity, if the conditions as defined in the law are met.

The extension of the collective agreement to the healthcare sector is conditional upon that the employer(s) or the employer members of the advocacy groups of employers employ the majority of persons having a public employee relationship or employment relationship in the healthcare sector, and that there is at least one trade union among the trade union(s) concluding the collective agreement, the members of which having a public employee relationship or employment relationship in the healthcare sector reach 10 % of the persons employed in a public employee relationship or employment relationship in the healthcare sector. [Section 19/B(2) of the Healthcare Act]

Requests for extension may refer to the division, group or class under the Standard Industrial Classification of All Economic Activities Hungarian NACE'08. The terms and conditions under paragraph (2) shall be fulfilled accordingly. [Section 19/B(3) of the Healthcare Act]

The applicants shall support the fulfilment of conditions under paragraph (2) in the procedure before the minister responsible for employment policy with facts referring to the date that is six months prior to the date of submission of the request for extension. During his procedure, the minister responsible for employment policy may contact the competent authority, court, public administrative body, public body, interest representation body or advocacy group or forum, employer, representative association of employers, trade union or federation or trade unions registering or handling the data. [Section 19/B(4) of the Healthcare Act]

Request for extension may only be submitted for collective agreements registered in the register of collective agreements managed by the minister responsible for employment policy. The minister responsible for employment policy shall examine, for the purposes of taking a decision on ordering extension, the data and reasons related to economy, budget, public finances, employment and social factors. [Section 19/B(5) of the Healthcare Act]

Section 17(3) and (4), Section 18(1) to (3) and Section 26(13) of the Dialogue Act shall be applicable to the extension to the healthcare sector. [Section 19/B(6) of the Healthcare Act]

C. Rules applicable to public service officials

Pursuant to the Public Service Officials Act, it is still not allowed in law to conclude collective agreements at the level of the workplace in public service, since agreements are made at macro level, the content of employment is defined by law, and social partners may participate in their drafting with the right to give opinion only.

D. Rules governing the professional members of the armed forces

Pursuant to the new Service Act, it is still not allowed in law to conclude collective agreements at the level of the workplace, since agreements are made at macro level, the content of employment is defined by law, and social partners may participate in

their drafting with the right to give opinion only. This regulation is in line with point 1 of Article G of Part V, which allows for exceptions in order to protect “public interest, national security, public health or public ethics”.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

The rules for reporting and registering the conclusion of collective agreements are contained in Decree No 2/2004 (I. 15.) of the Minister of Employment and Labour on the detailed rules for reporting and registering collective agreements.

The contracting parties shall report the collective agreement for registration to the ministry led by the minister responsible for employment policy (hereinafter referred to as Ministry) within thirty day following the conclusion thereof.
The parties shall also report the collective agreement’s

(a) modification;
(b) termination;
(c) end of applicability.

In relation to the extension of the collective agreement, it shall also be reported if an advocacy group concluding the extended collective agreement discontinues its activity.

At the same time as fulfilling the reporting obligation, one copy of the collective agreement covering several employers with the original signature of the contracting parties shall be deposited at the Ministry.
The Ministry shall register the collective agreement based on the notification of the contracting parties.

The parties concluding the collective agreement shall fulfil their reporting obligation by filling in electronically in the manner as defined in paragraph (2) of the data sheets with the content as specified in Annex 1 and published in the electronic register of collective agreements under the Industrial Relations Information System on the website of the Ministry (hereinafter referred to as electronic register) and by notifying them electronically (hereinafter referred to as electronic notification).

The Ministry shall assign a temporary identification code to the parties concluding the collective agreements based on their request submitted to the electronic register within three working days via electronic means.

The contracting parties received their final identification code together with the registration number of the collective agreement. Contracting parties having an identification code can from then on perform electronic notifications with the help of this code, and they can access the electronic data sheets relevant to their collective agreement any time.

The parties concluding a collective agreement have different identification codes. The identification code shall be deleted, if:

a) the collective agreement is repealed;
b) any party to the agreement is terminated without succession.

If in the data sheet or in the collective agreement submitted to be deposited pursuant to paragraph (4) of Section 1, the data provided in points (a) to (d) of Section 3(2) are incomplete or inaccurate, the Ministry shall not register the collective agreement, and shall notify the parties thereof via electronic means.

The Ministry shall, during the registration of the collective agreement:

a) assign a registration number to the data sheet and the submitted collective agreement;
b) place the collective agreement covering several employers into the document repository (computer repository);
c) store electronically received data on its information technology tool;
d) notify the parties about registration by assigning a registration number electronically.

The register kept by the Ministry on a computer shall include:

a) the name, address of registered seat of contracting parties, for employers their taxation number;
b) for collective agreements covering several employers the taxation number, name and address of registered seat of contracting parties;
c) the notified event (conclusion, amendment, modification or end of applicability of the collective agreement) and its time;
d) the temporal scope of the collective agreement (concluded for unlimited or limited duration), in case of collective agreements for a limited duration, the expiry date; and
e) the registration number.

The Electronic Registry Book of Collective Agreements made on the basis of the register is open to the public.

The content of the data sheet and the deposited collective agreement may only be disclosed or handed over to third parties or released to the public with the prior written consent of the reporting parties. The Ministry shall publish the collective agreements that can be released to the public on its website.

If the Ministry become aware in a credible manner of that the collective agreement has been repealed, the Ministry shall transfer this agreement to the database containing repealed contracts and agreements. The Ministry shall notify the parties thereof while making reference to the registration number.

3) KEY DATA, STATISTICS

Employees between 15 and 64 according to counties, sexes and whether there is a valid collective agreement in force at the workplace, Q2 2015

County	Collective agreement at the workplace							
	Exists	Doesn't exist	Don't know	Altogether	Exists	Doesn't exist	Don't know	
	Number of persons				%			

Altogether								
Budapest	174 455	374 525	105 946	654 926	26,6	57,2	16,2	100,0
Baranya	23 467	79 352	22 187	125 006	18,8	63,5	17,7	100,0
Bács-Kiskun	22 669	120 915	42 852	186 436	12,2	64,9	23,0	100,0
Békés	22 236	89 751	14 000	125 987	17,6	71,2	11,1	100,0
Borsod-Abaúj-Zemplén	55 413	110 077	69 914	235 404	23,5	46,8	29,7	100,0
Csongrád	28 879	90 141	26 014	145 034	19,9	62,2	17,9	100,0
Fejér	48 019	74 262	41 961	164 242	29,2	45,2	25,5	100,0
Győr-Moson-Sopron	19 869	102 869	64 122	186 860	10,6	55,1	34,3	100,0
Hajdú-Bihar	35 322	97 193	57 387	189 902	18,6	51,2	30,2	100,0
Heves	14 994	65 770	23 251	104 015	14,4	63,2	22,4	100,0
Komárom-Esztergom	33 234	72 641	20 287	126 162	26,3	57,6	16,1	100,0
Nógrád	8 386	53 360	9 718	71 464	11,7	74,7	13,6	100,0
Pest	81 301	263 112	119 374	463 787	17,5	56,7	25,7	100,0
Somogy	15 751	50 842	37 128	103 721	15,2	49,0	35,8	100,0
Szabolcs-Szatmár-Bereg	27 489	116 406	51 952	195 847	14,0	59,4	26,5	100,0
Jász-Nagykun-Szolnok	33 072	77 336	22 563	132 971	24,9	58,2	17,0	100,0
Tolna	21 210	41 133	17 010	79 353	26,7	51,8	21,4	100,0
Vas	35 247	53 487	14 624	103 358	34,1	51,7	14,1	100,0
Veszprém	27 268	91 192	22 394	140 854	19,4	64,7	15,9	100,0
Zala	21 588	59 347	20 487	101 422	21,3	58,5	20,2	100,0
Total	**749 869**	**2 083 711**	**803 171**	**3 636 751**	**20,6**	**57,3**	**22,1**	**100,0**
Men								
Budapest	83 242	196 842	57 173	337 257	24,7	58,4	17,0	100,0
Baranya	10 637	40 658	12 770	64 065	16,6	63,5	19,9	100,0
Bács-Kiskun	10 213	66 234	22 453	98 900	10,3	67,0	22,7	100,0
Békés	11 746	46 653	8 632	67 031	17,5	69,6	12,9	100,0
Borsod-Abaúj-Zemplén	31 428	56 335	41 896	129 659	24,2	43,4	32,3	100,0
Csongrád	12 822	49 395	12 930	75 147	17,1	65,7	17,2	100,0
Fejér	26 162	39 306	22 102	87 570	29,9	44,9	25,2	100,0
Győr-Moson-Sopron	12 193	52 075	37 548	101 816	12,0	51,1	36,9	100,0
Hajdú-Bihar	16 571	53 115	34 334	104 020	15,9	51,1	33,0	100,0
Heves	7 271	34 185	13 110	54 566	13,3	62,6	24,0	100,0
Komárom-Esztergom	18 234	39 339	10 431	68 004	26,8	57,8	15,3	100,0
Nógrád	5 127	27 864	4 688	37 679	13,6	74,0	12,4	100,0
Pest	37 276	138 199	62 123	237 598	15,7	58,2	26,1	100,0
Somogy	6 433	26 708	21 906	55 047	11,7	48,5	39,8	100,0
Szabolcs-Szatmár-Bereg	13 106	62 103	28 547	103 756	12,6	59,9	27,5	100,0
Jász-Nagykun-Szolnok	17 185	39 767	14 644	71 596	24,0	55,5	20,5	100,0
Tolna	10 965	23 042	8 820	42 827	25,6	53,8	20,6	100,0
Vas	18 521	28 035	6 997	53 553	34,6	52,4	13,1	100,0
Veszprém	13 142	50 007	11 584	74 733	17,6	66,9	15,5	100,0
Zala	10 690	29 936	13 348	53 974	19,8	55,5	24,7	100,0
Total	**372 964**	**1 099 798**	**446 036**	**1 918 798**	**19,4**	**57,3**	**23,2**	**100,0**
Women								
Budapest	91 213	177 683	48 773	317 669	28,7	55,9	15,4	100,0
Baranya	12 830	38 694	9 417	60 941	21,1	63,5	15,5	100,0
Bács-Kiskun	12 456	54 681	20 399	87 536	14,2	62,5	23,3	100,0
Békés	10 490	43 098	5 368	58 956	17,8	73,1	9,1	100,0
Borsod-Abaúj-Zemplén	23 985	53 742	28 018	105 745	22,7	50,8	26,5	100,0
Csongrád	16 057	40 746	13 084	69 887	23,0	58,3	18,7	100,0
Fejér	21 857	34 956	19 859	76 672	28,5	45,6	25,9	100,0

Győr-Moson-Sopron	7 676	50 794	26 574	85 044	9,0	59,7	31,2	100,0
Hajdú-Bihar	18 751	44 078	23 053	85 882	21,8	51,3	26,8	100,0
Heves	7 723	31 585	10 141	49 449	15,6	63,9	20,5	100,0
Komárom-Esztergom	15 000	33 302	9 856	58 158	25,8	57,3	16,9	100,0
Nógrád	3 259	25 496	5 030	33 785	9,6	75,5	14,9	100,0
Pest	44 025	124 913	57 251	226 189	19,5	55,2	25,3	100,0
Somogy	9 318	24 134	15 222	48 674	19,1	49,6	31,3	100,0
Szabolcs-Szatmár-Bereg	14 383	54 303	23 405	92 091	15,6	59,0	25,4	100,0
Jász-Nagykun-Szolnok	15 887	37 569	7 919	61 375	25,9	61,2	12,9	100,0
Tolna	10 245	18 091	8 190	36 526	28,0	49,5	22,4	100,0
Vas	16 726	25 452	7 627	49 805	33,6	51,1	15,3	100,0
Veszprém	14 126	41 185	10 810	66 121	21,4	62,3	16,3	100,0
Zala	10 898	29 411	7 139	47 448	23,0	62,0	15,0	100,0
Total	**376 905**	**983 913**	**357 135**	**1 717 953**	**21,9**	**57,3**	**20,8**	**100,0**

Source: *SCO*

4) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR has concluded that the situation in Hungary is not in conformity with Article 6§2 of the Charter on the ground that no promoting measures have been taken in order to facilitate and encourage the conclusion of collective agreements, even though the coverage of workers by collective agreements is manifestly low.**

The Labour Code expanded significantly the role of work contracts and collective agreements. In general the collective agreement may derogate from the law, however, there are certain rules from which derogation is not allowed, and some from which derogations are allowed only to the benefit of workers.

The increased importance of collective agreements expands the role of advocacy groups of employers and trade unions, and reduces state regulation.

According to our position, this may contribute to the rising number of collective agreements and the spread collective agreements extended to sectors.

The Hungarian laws in force (in particular the Labour Code) have opened even wider the floodgates to social partners so that the participants of the world of work can divert from the provisions set out in the law with more favourable rules at the workplaces with the tool of collective agreements. Also, this possibility sets responsibility for the social partners, and consequently, the new labour regulations also incite them to cooperate with each other at a higher professional level.

In order to ensure the efficient exercise of the right to collective bargaining, the Parties agree to

3. promote the establishment of an appropriate conciliatory and voluntary decision-making mechanism for labour dispute resolution;

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

In the reporting period, part four of the Labour Code summarises the relevant provisions concerning labour disputes. Chapter XXIII relates to the enforcement of labour-law claims, while Chapter XXIV regulates collective labour disputes.

The act does not define collective labour dispute. However pursuant to Section 291(1) of the Labour Code, collective labour disputes may arise between the employer on the one hand, and the works council or the trade union on the other hand.

Disputes arising between the above bodies (organisations) shall be regarded as collective labour disputes, which shall not be treated as a labour-law claim under Chapter XXIII. Accordingly, all disputes shall be regarded as collective labour disputes which are not founded on a universal right. It is aimed at enforcing claims relating to rights or obligations not arising from the Labour Code or other legal provisions, collective agreements or works agreements. The emphasis is not on exercising some right or fulfilling some obligation or their interpretation; there is no rule pertaining to the employment relationship, which would give specific guidance on the disputed issue. However, in a dispute of interests, the subject of the dispute is usually not the existence of a right, but its range/scope/spectrum. Collective labour dispute shall be for instance a conflict between the parties in the subject of cooperation or establishment of a system of relationships between the parties and the operation thereof, or the dispute about the resolution of substantive issues arising from the nature of interest representation, such as a dispute between the employer and the works council in issues falling under the right of consultation of the works council. Conflict of interests can arise typically between the employer and the trade union during wage bargaining, but it also includes disputes about the amount of non-wage benefits, social benefits, issues of corporate restructuring, draft collective agreements and their range, room for bargaining, wording of content or renegotiation.

In the reporting period, alternative dispute resolution procedures have also been introduced as follows besides maintaining the procedure of the conciliation committee arbitrator described in the previous report.

Section 4(2)(e) and (f) of Government Decree No 320/2014 (XII. 13.) on the designation of the public employment service, the occupational safety and health authority and the employment authority, and on performing the official and other tasks of these bodies in force as of 1 December 2016 stipulates that in his labour market function the minister shall establish, in case of collective labour disputes of interests and conciliation, a professionally independent national supporting system of

collective labour disputes based on uniform principles, coordinate the operation of alternative labour dispute resolution service, and operate the labour counselling and dispute resolution service.

The primary aim of the Labour Counselling and Dispute Resolution Service (hereinafter referred: Dispute Resolution Service) is to contribute to the functioning of collective labour relations, and prevent or resolve collective labour disputes.

In 2016, the Dispute Resolution Service replaced the Labour Mediation and Arbitration Service (hereinafter referred to as Arbitration Service) functioning from 1996.

Based on its Organisational Rules and Rules of Procedure and Conduct in force (hereinafter referred to as Code), the Dispute Resolution Service collaborates in the resolution of collective labour disputes according to the needs of the parties to the dispute with the offers of impartial, independent and qualified labour lawyer counsels, conciliators, negotiators, mediators and arbitrators (members of the Service), and helps the resolution of disputed issues relating to labour relations on a territorial basis, divided into seven regions.

The aim of the Service is to restore trust and eliminate the conflict between the parties to the dispute, to conserve and restore peace at work and to improve the culture of labour relations.

Employers/advocacy groups of employers, works councils/public employee councils and trade unions/federations of trade unions may turn to the Dispute Resolution Service.

Entities may turn to the Dispute Resolution Service in relation to the following legal relationships: employment relationship, public employee relationship, civil servant relationship, state official relationship, government official relationship, service relationship under the Private Soldiers Act, service relationship under the Service Act.

The procedure is initiated with the written request of the party/parties (counselling, conciliation, mediation, negotiation, arbitration). The rules of procedure of the Dispute Resolution Service are regulated by the Code.

The Code is based on the principle of voluntary application. Within this context, by initiating the procedure and participating in it, the party deems the procedural rules in part I to III of the Code to be compulsory and binding in relation to him. During the procedure, the parties may make declarations and conclude agreements.

Under the principle of optional nature of dispute resolution, the parties may choose from the services of the Dispute Resolution Service regulated in detailed in the Code. Where an agreement between the parties having entered into force prior to the commencement of the procedure settles the rules for the dispute resolution procedure, the rules of the Code shall be applied accordingly. The parties shall inform the acting member of the Dispute Resolution Service of such agreement and shall hand it over to that member.

The Dispute Resolution Service may only act upon the mutual, voluntary request of the parties, and its application depends on the free will of the parties to the dispute.
If only one party initiates the procedure, the organisational leader of the Dispute Resolution Service shall act in order to have the other party join the initiative. The parties to the dispute are not obliged to use the procedure offered by the Dispute Resolution Service, and either party may leave an on-going procedure.

The procedure of the Dispute Resolution Service shall be free of charge for the parties up to 8 negotiation days, the costs of the acting member of the Service and of experts, counsels shall be borne by the Service.
The parties shall bear their own costs incurred during the procedure, unless otherwise stipulated in law or in an agreement of the parties for the burden of costs.

The parties shall cooperate during the procedure with each other and with the acting member of the Dispute Resolution Service for the purpose of reaching an agreement or resolving the dispute successfully. The parties shall not engage in any conduct aiming to frustrate the procedure, the agreement (decision-making) or the implementation of the decision.

The members of the Dispute Resolution Service shall be independent and impartial, they shall not be representatives of the parties, and shall not be instructed in their resolution activities.

The parties shall be given equal treatment in procedures before the Dispute Resolution Service.

The Dispute Resolution Service principally endeavours to resolve disputes by facilitating the mutual consent of the parties. It provides its services based on the principle of speed, flexibility and cost-effectiveness.

Unless the parties jointly declare otherwise, the procedures before the Service and the results thereof are not public. The acting member of the Dispute Resolution Service, its organisational leader, the experts and the counsels are required to keep complete confidentiality with respect to the information acquired in the course of the procedure, even after the procedure has ended.

The parties may, during an on-going procedure, jointly request the acting member of the Dispute Resolution Service to continue his collaboration on the basis of another procedure (e.g. mediation instead of counselling, conciliation instead of mediation). The request also means that they abide by the rules of the requested procedure as specified in this Code.

Upon the joint request of the parties, the Dispute Resolution Service shall perform the following procedures:

a) counselling;
b) conciliation;
c) mediation;
d) negotiation;
e) arbitration.

Counselling

Within the framework of counselling, the acting member of the Dispute Resolution Service shall provide counselling to the party or parties in issues relating to labour relations for the prevention or peaceful settlement of collective labour dispute of interests, in particular the member shall:

a) provide advice on the dispute resolution tools available for resolving the occurred collective labour dispute of interests, shall provide assistance in selecting the procedure under this Code that best fits the nature of the collective labour dispute of interests;
b) provide advice on the regulation of procedures for the resolution of future collective labour dispute of interests between the parties in collective agreements, works agreements or arrangements, shall give opinion on the provisions of agreements between the parties already in force;
c) provide advice on techniques and strategies to be applied for direct negotiated dispute resolution between the parties and for reaching a mutually favourable agreement;
d) provide assistance in the objective establishment of the facts and clarification of governing and relevant data in the collective labour dispute of interests between the parties;
e) provide assistance for employers in the possible ways of avoiding potential harm to the interests of employees or collective labour disputes of interests in case the proposed decision is being implemented;
f) provide assistance in determining and identifying the interests subject to the collective labour dispute of interests.

Conciliation

Conciliation is a dispute resolution procedure, during which to resolve a dispute, the parties use a conciliator independent of them and not concerned by the dispute, who attempts to reach an agreement. During conciliation, the acting member of the Dispute Resolution Service as conciliator attempts to bring the positions of the parties closer together, helps in interpreting the problem, puts into words the possible arguments, counter-arguments and priorities of the parties and tries to clarify any misunderstanding occurring due to bad negotiating or communication practices. The aim of conciliation is to have the parties end the dispute with mutual agreement.

The conciliator hears the position of the parties in detail during the procedure. During the hearing, the parties can explain their position established along their interests and present the documents or evidence at their disposal. The conciliator may carry out the procedure with the presence of both parties or in the form of separate meetings. The conciliator may communicate the information received from one party to the other so that the other party can establish and present its position taking into account this information, unless based on the declaration of the party providing the information, said information may not be communicated to the other party.

The conciliator in the procedure shall not formulate its own proposal for the resolution of the dispute. The conciliator shall document in writing the agreement concluded in

the presence of both parties, and shall hand over the document containing the settlement to the parties. The conciliator and the parties shall sign the settlement.

Pursuant to the Labour Code, the parties may use conciliation for collective labour disputes as well. If the parties have participated in conciliation before turning to court, this shall have no effect on the time limits to lodge actions (Section 288 of the Labour Code). The conciliator shall inform the parties about this circumstance separately at the commencement of the procedure.

Mediation

Mediation is a dispute resolution procedure during which to resolve a collective labour dispute of interests, the parties use a mediator independent of them and not concerned by the dispute, who attempts to reach an agreement, and supports it with formulating his own proposal.

The rules of conciliation shall also apply to the mediation procedure with the stipulation that the acting member of the Dispute Resolution Service as mediator shall participate actively in resolving the conflict. To this end, the mediator shall elaborate specific proposals to be offered for both parties for consideration. However, it is not the responsibility of the mediator to evaluate the emerging proposals or to prefer the solution the mediator deems appropriate.

The proposal of the mediator shall not be binding on the parties, and the parties shall be notifying about this circumstance separately at the commencement of the procedure.

Reconciliation

A conciliation committee shall act in negotiation procedures. The chairperson of the conciliation committee (hereinafter referred to as committee) shall be the acting member of the Dispute Resolution Service. The members of the committee shall elaborate the suggested solutions (alternatives) of which to decide together with the chairperson.

To set up the committee, the parties may also invite an odd number of other members of the Dispute Resolution Service; in this case, the member as agreed by the parties or in the absence thereof, the member designated by the organisational leader shall be the chairperson of the committee. Each party shall appoint an equal number of members to the Dispute Resolution Service.

The chairperson shall promote the reaching of an agreement with continuous dialogue maintained with the members delegated by the parties, but the chairperson shall not decide in the dispute. The chairperson may elaborate his own proposal for the parties besides the negotiations between the parties. At the end of the procedure, the chairperson shall summarise the results and take a decision.

By way of derogation from the above, the parties may subject themselves in writing to the decision of the committee in advance. In this case the committee shall take a

binding decision. The decision shall be taken by the members of the committee and the chairperson; the chairperson's vote decides in the case of a tied vote.

The parties may also make a declaration on abiding by the decision during the procedure. Therefore, nothing prevents a procedure from being closed with a binding decision.

Arbitration

Arbitration is a dispute resolution procedure to resolve collective labour disputes of interests during which the arbitrator shall close the dispute by taking a decision. The decision of the arbitrator shall be binding upon the parties. The acting member of the Service shall be the arbitrator.

During the procedure the arbitrator aims at having the parties resolve the collective labour dispute of interests with an agreement. If agreement is not possible, the arbitrator shall decide in the dispute after having read the documents having heard the parties, the experts, the counsels and other interested parties in the dispute, where possible.

Upon the request of the parties to this effect, the arbitrator shall not elaborate his own decision, but shall choose one from the final offers elaborated by the parties. In this case, the decision is taken on the basis of the offer chosen by the arbitrator and with the content as defined in the offer. In the absence of a request, the arbitrator shall not take a decision within three days in the procedure, during this period the procedure may only be closed with the agreement of the parties. After the lapse of this period, the arbitrator shall be entitled to take a decision.

Recourse to an arbitrator shall be mandatory [Section 293(2) of the Labour Code]:

a) if the employer and the works council cannot agree on the expenses incurred in connection with the election and operation of the works council [Section 236(4) of the Labour Code], or
b) if the employer and the works council cannot agree on the appropriation of welfare fund [Section 263 of the Labour Code].

In case of a mandatory arbitration procedure, upon the request of the party to the dispute, the acting member of the Dispute Resolution Service shall call on the other party in writing to participate in the procedure.

In relation to ensuring alternative dispute resolution procedures, the Ministry shall collaborate with statistical data supply, and shall participate in the renewal or review of the Code on the provision of this service. It shall cooperate with the regional service providers for the promotion of uniform and coordinated operation, cost-effectiveness and flow of information.

B. Rules applicable to public service officials

Section 29(6)(b) of the Public Service Officials Act strengthens the right defender and mediator role of the Hungarian Government and State Officials Corps (hereinafter referred to as State Officials Corps) in that the State Officials Corps protect the

interests of its bodies and members and the rights of government officials. (For more information on the State Officials Corps, see the comments under Article 21).

C. Rules governing the professional members of the armed forces

The new Service Act introduced as a preliminary labour dispute resolution forum the legal institution of Court of Honour, and the provisions on the composition and operation of the Government Official Arbitration Committees were taken into account during the framing of the regulation.

The procedure of the Court of Honour is applied if a professional member of the law enforcement agencies requests the convocation thereof, which is possible in the cases below (Section 225 of the new Service Act):

- during his evaluation his unfitness to professional service was established, which led to his exemption, and the service complaint lodged against the exemption was rejected or the possibility to lodge a complaint is excluded by law;
- due to indignity he was exempted from service, and the service complaint lodged against the exemption was rejected or the possibility to lodge a complaint is excluded by law;
- within the context of a disciplinary proceeding the punishment of termination of service relationship was imposed, and the service complaint lodged against the substantive decision was rejected or the possibility to lodge a complaint is excluded by law. The convocation of the Court of Honour is therefore conditional upon that the complaint or service complaint lodged against the decision taken in the main proceedings was rejected or the possibility to lodge a complaint is excluded. Convocation shall be initiated with the supervisor having taken the complained decision within eight days from taking the decision. The Court of Honour shall decide upon the sustainability of the relationship, that is, it either establishes that the termination of service relationship is applicable or that it does not find justified the application of this legal consequence. Accordingly, the Court of Honour with its decision may confirm or repeal the exemption or the decision imposing the punishment. If the Court of Honour repeals the decision imposing the punishment, the body exercising the disciplinary authority may impose another punishment instead of the termination of the service relationship or may discontinue the disciplinary proceeding. An appeal against the decision of the Court of Honour may be lodged with the court within thirty days from taking the decision. The minister is empowered by law to establish the detailed rules of operation.

The main provisions of the new Service Act concerning the Court of Honour relating to the amicable settlement of labour disputes are as follows:

Section 226 (1) The Court of Honour may hear the persons having acted in the case made subject to its hearing, as well as the party concerned and its legal representative, the service supervisor and the director general responsible for staff table of the party. The Court shall take a decision within fifteen days from the transfer of the case on the basis of the case files and the declarations of the persons heard.

(2) The Court of Honour shall not overrule the facts established in the case specified in Section 225(1), it shall take a decision only on the following based on the established facts:

(a) whether the termination of service relationship could be applied as a legal consequence, or

(b) it does not find justified the application of the termination of service relationship in lieu of the conditions.

(3) The Court of Honour shall

(a) confirm or repeal exemption in the case referred to in Section 225(1)(a) and (b),

(b) confirm or repeal the decision imposing the punishment in the case referred to in Section 225(1)(c).

(4) If the Court of Honour repeals the decision imposing the punishment, it shall notify the body exercising the administrative authority about the decision immediately. The body exercising the administrative authority shall, instead of the punishment to terminate the service relationship, impose the punishment as specified in Section 185(1)(a) to (f) or discontinue the proceeding within eight days of the receipt of the decision. Against this decision of the body exercising the administrative authority, no complaint shall be lodged, the person who is the subject of the proceeding and his representative may turn to court.

Section 227 (1) The director general shall keep a name list of the members of the professional personnel who may act as a member of the Court of Honour. The name list shall include between ten and fifty members per each staff grouping of military ranks, who are worthy of collaborating in the work of the Court of Honour on the basis of their exemplary conduct and performance of duty. In order to be added to the name list, the consent of the concerned member of the professional personnel is necessary.

(2) The Court of Honour shall be composed of three persons.

(3) The chairperson of the Court of Honour shall be appointed by the Presidency of the Law Enforcement Branch based on the proposal requested from the Ethical Committee of the Law Enforcement Branch from among the members of the professional personnel included in the name list compiled by the law enforcement agency.

(4) The two other members of the Court of Honour shall be designated by the supervisor convening the Court of Honour from among the members of the professional personnel included in the name list who are at least in the same staff grouping of military ranks with the person subjected to the proceeding.

(6) The director general responsible for staff table, the chairperson of the Ethical Committee of the Law Enforcement Branch and the person concerned may raise a complaint against the appointment of the members with reference to paragraph (5). The appointee shall select another candidate within three days for the place of the complained member or shall maintain the appointment. In this case, the other members of the Court of Honour shall decide on the exclusion of the member concerned.

(7) The operational rules of the Court of Honour shall be provided by the director general.

(8) The detailed operational rules of the Court of Honour shall be determined by the minister in a decree."

2) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests detailed information concerning the operation of the Arbitration Service in practice.**

Upon request of the ECSR, we have provided detailed information above (point A) concerning the operation of the Dispute Resolution Service, which replaced the previously operating Labour Mediation and Arbitration Service.

In order to ensure the efficient exercise of the right to collective bargaining, the Parties agree to:

… recognise
4. the right of workers and employers to take collective action in the case of conflicts of interest, including the right to strike subject to the obligations arising from previously adopted collective agreements.

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

The regulation of the right to strike was not modified in the reporting period.

B. Rules applicable to public service officials

Pursuant to Section 3(2) of Act VII of 1989 on strike (hereinafter referred to as Strike Act), strike shall not be held at judicial bodies, the Hungarian Defence Forces or law enforcement agencies. At state administration bodies, the right to strike may be exercised while complying with the particular rules set out in the agreement between the Government and the relevant trade unions, but the members of the professional personnel at the National Tax and Customs Administration of Hungary shall not be entitled to exercise the right to strike.

The strike agreement (hereinafter referred to as Agreement) concluded with respect to public administration has been remaining in force since 1994. Pursuant to the agreement between the Government, the trade unions concerned and the national advocacy groups of local governments, the civil servants of public administrative bodies and local governments may exercise their rights provided for in the Strike Act while complying with the particular rules set out in the Agreement.

On the basis of the restrictions declared in point 1 and 2 of the Agreement relevant to the subjects of the right to strike, participation in strike is forbidden for civil servants exercising employer's rights which concern fundamentally the existence of the public service relationship. The reason for this is that the civil servants exercising employer's rights (e.g. appointment, exemption, determination of remuneration, commencement of disciplinary proceedings) which concern fundamentally the existence of the public service relationship play a fundamental role in the operation of the public administrative body and in taking lawful public administrative decisions, therefore, the increase protection of public interest as defined in Section 31(1) of Part V ("Restrictions") of the Charter justifies the exclusion of this group of persons from the exercise of right to strike. The trade unions and national federations of local governments being signatory parties to the Agreement have also agreed with this restriction.

Only the trade unions being signatories of the Agreement or joining thereto and their operating bodies shall be entitled to the right to initiate a strike. Trade unions not having signed the Agreement are not entitled to the right to initiate a strike, because

the Agreement settles important rules of procedure relating to the commencement and execution of a strike, which the signatory parties are bound to comply with. Such obligation would obviously not have to be borne by trade unions not being signatories of the Agreement, which would jeopardise compliance with rules of procedure and guarantee relating to the execution of the strike. These rules are necessary, because otherwise the public interest related to fundamental community and public administrative services and public healthcare and hygiene, etc. would be compromised.

An additional restriction is that the right to commencement of a strike may only be exercised with the authorisation of the majority of civil servants; such authorisation may not only be obtained by signatures, but by a joint declaration made at the work forum organised by the trade union. However, participation in giving a collective authorisation does not mean participation in the strike. The Agreement prescribes the authorisation of the majority of civil servants as a condition, because due to the particular working order of public administration and the public interest in the stability of the state mechanism, a strike of the minority would also hinder the work of those who do not wish to join the strike. The threshold was not set by the Government; it was accepted by the trade unions as well when signing the strike agreement, therefore, the restriction may not be deemed unjustified.

Point 3 of the Agreement constitutes the content restriction of the right to strike, pursuant to which solidarity action may not be initiated apart from the enforcement of the economic and social interests of civil servants, that is, the civil servants may participate in solidarity action in respect of the claims of each other.

Apart from specifying the detailed rules of procedure on initiating and carrying out a strike, the Agreement declares in point 10 the open nature of the Agreement, that is, trade unions and interest representations of local governments operating in the field of public administration may join the Agreement any time.

Pursuant to point 7 of the Agreement, strikes shall not impede the clients from solving their urgent matters. Strikes shall not impede national and municipal elections or referenda, shall not jeopardise the fulfilment of defence and disaster management duties of the country and shall not frustrate the performance of decisions of significant social importance of the Parliament, the Government and the body of representatives and public assembly of local governments. The set of urgent matters and the conditions necessary for the handling thereof, as well as the set of decisions of significant social importance shall be decided in the conciliation procedure preceding the strike. The harmonisation of point 7 of the Agreement and the definition of satisfactory service as specified in Section 4(2) of the Strike Act may be the subject of further negotiations.

If the employer unlawfully terminates the government service relationship of the government official being on strike legally, then pursuant to Section 193(1)(a) of the Public Service Officials Act (improper exercise of rights), the government official may request his continued employment in his original position. In this case, the government official shall be reimbursed for lost wages (and other emoluments) and compensated for any damages arising from the unlawful termination of employment relationship. If the government official does not request his continued employment or

a court ignores this possibility, the government service relationship shall be deemed terminated on the day when the court ruling on the unlawful status becomes binding, and the court shall order the employer to pay minimum two month or maximum twelve months of average wages to the government official.

C. Rules governing the professional members of the armed forces

Pursuant to the Strike Act, strikes shall not be held at police and law enforcement agencies and at civil national security services.

Within the framework of the rules on limitation of fundamental rights, the new Service Act states in respect of the right of association that *"interest representation bodies may operate and exercise their rights freely within the framework of this act. However, they shall not organise strikes."* This regulation is in line with point 1 of Article G of Part V, which allows for exceptions in order to protect "public interest, national security, public health or public ethics".
The main provisions of the new Service Act concerning the right to strike are as follows:

"Section 24 (1) Professional members of the law enforcement agencies may establish or join interest representation bodies pursuant to the right of association, with the limitations set out herein. Professional members of the law enforcement agencies shall have the right to found, without discrimination, with others an interest representation body to promote and protect their economic and social interests under the conditions set out in law, and to join an organisation of their choice or to stay away from such organisations depending only on the rules of the given organisation.
(2) Interest representation bodies may operate and exercise their rights freely within the framework of this act. However, they shall not organise strikes, and with the activities — including the putting at risk of maintenance of public trust necessary for the operation of the law enforcement agency — they shall not hinder the lawful and normal operation of the law enforcement agency, or the fulfilment of the obligation of professional members of the law enforcement agencies to execute orders and measures."

2) KEY DATA, STATISTICS

Employees between 15 and 64 according to counties, sexes and whether there has been a strike at the workplace in 2014

	Strike took place at the workplace in 2014						
County	Yes	No	Don't know	Total	Yes	No	Don't Know Total
	Number of persons				%		
Altogether							
Budapest	4 549	642 018	8 358	654 925	0,7	98,0	1,3 100,0

Baranya	781	122 008	2 218	125 007	0,6	97,6	1,8	100,0
Bács-Kiskun	–	181 876	4 561	186 437	–	97,6	2,4	100,0
Békés	438	124 602	947	125 987	0,3	98,9	0,8	100,0
Borsod-Abaúj-Zemplén	901	225 271	9 232	235 404	0,4	95,7	3,9	100,0
Csongrád	746	139 120	5 168	145 034	0,5	95,9	3,6	100,0
Fejér	336	162 670	1 237	164 243	0,2	99,0	0,8	100,0
Győr-Moson-Sopron	798	163 461	22 601	186 860	0,4	87,5	12,1	100,0
Hajdú-Bihar	–	186 569	3 334	189 903	–	98,2	1,8	100,0
Heves	642	101 722	1 650	104 014	0,6	97,8	1,6	100,0
Komárom-Esztergom	–	123 841	2 322	126 163	–	98,2	1,8	100,0
Nógrád	378	70 847	239	71 464	0,5	99,1	0,3	100,0
Pest	1 509	448 199	14 079	463 787	0,3	96,6	3,0	100,0
Somogy	336	98 824	4 561	103 721	0,3	95,3	4,4	100,0
Szabolcs-Szatmár-Bereg	214	193 018	2 616	195 848	0,1	98,6	1,3	100,0
Jász-Nagykun-Szolnok	–	130 135	2 835	132 970	–	97,9	2,1	100,0
Tolna	557	75 918	2 879	79 354	0,7	95,7	3,6	100,0
Vas	294	102 250	814	103 358	0,3	98,9	0,8	100,0
Veszprém	–	139 444	1 411	140 855	–	99,0	1,0	100,0
Zala	–	100 554	867	101 421	–	99,1	0,9	100,0
Total	**12 479**	**3 532 347**	**91 929**	**3 636 755**	**0,3**	**97,1**	**2,5**	**100,0**
Men								
Budapest	1 774	330 898	4 585	337 257	0,5	98,1	1,4	100,0
Baranya	416	62 226	1 423	64 065	0,6	97,1	2,2	100,0
Bács-Kiskun	–	96 225	2 676	98 901	–	97,3	2,7	100,0
Békés	192	65 998	840	67 030	0,3	98,5	1,3	100,0
Borsod-Abaúj-Zemplén	531	123 692	5 437	129 660	0,4	95,4	4,2	100,0
Csongrád	–	71 950	3 196	75 146	–	95,7	4,3	100,0
Fejér	–	87 163	407	87 570	–	99,5	0,5	100,0
Győr-Moson-Sopron	380	87 070	14 366	101 816	0,4	85,5	14,1	100,0
Hajdú-Bihar	–	102 250	1 769	104 019	–	98,3	1,7	100,0
Heves	131	53 490	946	54 567	0,2	98,0	1,7	100,0
Komárom-Esztergom	–	67 010	994	68 004	–	98,5	1,5	100,0
Nógrád	–	37 441	239	37 680	–	99,4	0,6	100,0

Pest	262	230 368	6 969	237 599	0,1	97,0	2,9	100,0
Somogy	183	52 265	2 598	55 046	0,3	94,9	4,7	100,0
Szabolcs-Szatmár-Bereg	214	102 177	1 365	103 756	0,2	98,5	1,3	100,0
Jász-Nagykun-Szolnok	–	69 861	1 735	71 596	–	97,6	2,4	100,0
Tolna	295	41 028	1 505	42 828	0,7	95,8	3,5	100,0
Vas	–	53 185	367	53 552	–	99,3	0,7	100,0
Veszprém	–	74 303	430	74 733	–	99,4	0,6	100,0
Zala	–	53 466	509	53 975	–	99,1	0,9	100,0
Total	**4 378**	**1 862 066**	**52 356**	**1 918 800**	**0,2**	**97,0**	**2,7**	**100,0**
Women								
Budapest	2 775	311 120	3 773	317 668	0,9	97,9	1,2	100,0
Baranya	365	59 782	795	60 942	0,6	98,1	1,3	100,0
Bács-Kiskun	–	85 651	1 885	87 536	–	97,8	2,2	100,0
Békés	246	58 604	107	58 957	0,4	99,4	0,2	100,0
Borsod-Abaúj-Zemplén	370	101 579	3 795	105 744	0,3	96,1	3,6	100,0
Csongrád	746	67 170	1 972	69 888	1,1	96,1	2,8	100,0
Fejér	336	75 507	830	76 673	0,4	98,5	1,1	100,0
Győr-Moson-Sopron	418	76 391	8 235	85 044	0,5	89,8	9,7	100,0
Hajdú-Bihar	–	84 319	1 565	85 884	–	98,2	1,8	100,0
Heves	511	48 232	704	49 447	1,0	97,5	1,4	100,0
Komárom-Esztergom	–	56 831	1 328	58 159	–	97,7	2,3	100,0
Nógrád	378	33 406	–	33 784	–	98,9	–	100,0
Pest	1 247	217 831	7 110	226 188	0,6	96,3	3,1	100,0
Somogy	153	46 559	1 963	48 675	0,3	95,7	4,0	100,0
Szabolcs-Szatmár-Bereg	–	90 841	1 251	92 092	–	98,6	1,4	100,0
Jász-Nagykun-Szolnok	–	60 274	1 100	61 374	–	98,2	1,8	100,0
Tolna	262	34 890	1 374	36 526	0,7	95,5	3,8	100,0
Vas	294	49 065	447	49 806	0,6	98,5	0,9	100,0
Veszprém	–	65 141	981	66 122	–	98,5	1,5	100,0
Zala	–	47 088	358	47 446	–	99,2	0,8	100,0
Total	**8 101**	**1 670 281**	**39 573**	**1 717 955**	**0,5**	**97,2**	**2,3**	**100,0**

Source: *SCO*

The weighted data and model element numbers of the block of questions "Trade unions, strikes" of the supplementary addition "Work quality" of 2015 Q2

	Man		Woman		Altogether	
	weighted data	model	weighted data	model	weighted data	model
	Number of persons					
Total	**1 918 798**	**11 083**	**1 717 955**	**9 918**	**3 647 836**	**21 001**
Trade union functions						
yes	453 861	2 469	459 171	2 477	915 501	4 946
no	1 210 101	7 210	1 060 406	6 345	2 277 717	13 555
don't know	254 836	1 404	198 378	1 096	454 618	2 500
Member of trade union						
yes	168 819	945	160 009	906	329 773	1 851
no	1 708 050	9 921	1 523 005	8 823	3 240 976	18 744
don't know	41 928	217	34 940	189	77 085	406
Labour council functions						
yes	337 852	1 897	313 652	1 733	653 401	3 630
no	1 206 160	7 161	1 104 799	6 545	2 318 120	13 706
don't know	374 787	2 025	299 503	1 640	676 315	3 665
Worker protection representative						
yes	561 289	3 183	504 230	2 827	1 068 702	6 010
no	1 003 783	5 964	931 708	5 551	1 941 455	11 515
don't know	353 727	1 936	282 017	1 540	637 680	3 476
Collective agreement is in force						
yes	372 964	1 939	376 906	1 941	751 809	3 880
no	1 099 798	6 594	983 915	5 920	2 090 307	12 514
don't know	446 037	2 550	357 133	2 057	805 720	4 607
Salary is influenced by the collective agreement						
yes	214 587	1 197	211 673	1 161	427 457	2 358
no	113 173	528	129 849	586	243 550	1 114
don't know	45 204	214	35 384	194	80 802	408
Working conditions are influenced by the collective agreement						
yes	209 690	1 158	210 722	1 139	421 570	2 297
no	123 541	583	132 183	614	256 307	1 197
don't know	39 732	198	34 002	188	73 932	386
Strike took place at the workplace in 2014						
yes	4 377	18	8 101	35	12 496	53
no	1 862 065	10 764	1 670 281	9 653	3 543 110	20 417
don't know	52 356	301	39 572	230	92 229	531

Source: *SCO*

3) ANSWERS TO THE QUESTIONS OF ECSR CONCERNING THIS PARAGRAPH

- **The ECSR has concluded that the situation in Hungary is not in conformity with Article 6§4 of the Charter on the grounds that:**

- **in the civil service, the right to call a strike is restricted to trade unions which are parties to the agreement concluded with the Government;**
- **the criteria used to define civil servant officials who are denied the right to strike go beyond the scope of Article G of the Charter;**
- **civil service trade unions may only call strikes with the approval of a majority of the staff concerned.**

In relation to the agreement on strike concluded in 1994 between the Government and certain trade unions of the public sector, the Commissioner for Fundamental Rights initiated that the second sentence of Section 3(2) of the Strike Act be declared unconstitutional and annulled. In his opinion explained in his submission, the restriction of the right to strike which left the determination of rules on the practice of a strike as regards state administration bodies to the discretion of an agreement between the Government and the trade unions concerned, was in violation of Article 8(2) of the Constitution.

The Constitutional Court took as a starting point that the right to strike is a peculiar fundamental right the nature of which is not a right, and which is not covered by fundamental rights protection, thus, the legislator is authorised to restrict it when establishing its regulation. However, since it is a right included in the Fundamental Law, its regulation is not limitless: the legislator must provide for the conditions of practising the right to strike, and an exclusion from the exercise of the right to strike may only be allowed for the protection of a right, value or objective specified in the Fundamental Law and in proportion thereto.

In this case, the Constitutional Court first established that the interest in providing the smooth and continuous operation of the state administration bodies performing the duties of the executive power is a justified reason for restricting the right to strike. From the aspect of the Fundamental Law, the Constitutional Court did not find the legislative solution that left the determination of conditions to the discretion of the agreement between the Government and the trade unions concerned to be of concern in itself.

Therefore, the right to strike may be exercised at state administration bodies, but only if the particular rules set out in the Agreement between the Government and the trade unions concerned are complied with.

- **ECSR requests information concerning the legal consequences and sanctions imposed against the employer of employees made redundant unlawfully due to their participation in strike.**

The exercising of the right to strike cannot be restricted, because all employees are entitled to it (Article XVII(2) of the Fundamental Law). Pursuant to the Strike Act, participation in the strike is voluntary, and nobody shall be forced to participate or to refrain from participating in the strike. No coercive measures aimed at terminating the strike shall be taken against employees participating in a lawful strike. [Section 1(2) of the Strike Act]

The Labour Code manages the legal consequences of wrongful termination of an employment relationship in point 44 of Chapter X as separate legal consequences with the exception that in case of wrongful termination of an employment relationship

by the employer, the general rules on the employer's liability for damages, i.e. Chapter XIII of the Labour Code shall be applied, in which Section 177 calls for the application of Section 6:518-534 of Act V of 2013 on the Civil Code.

Pursuant to the Labour Code, the employer shall be liable to provide compensation for damages resulting from the wrongful termination of an employment relationship by the employer. [Section 82(1) of the Labour Code]

Compensation for loss of income from employment payable to the employee may not exceed twelve months' absentee pay. [Section 82(2) of the Labour Code]

In addition to what is contained in paragraph (1) thereof, the employee is entitled to severance pay as well, if:

(a) his employment relationship was wrongfully terminated; or

he did not receive any severance pay pursuant to point b) of paragraph (5) of Section 77 at the time his employment relationship was terminated. [Section 82(3) of the Labour Code]

In lieu of paragraphs (1) to (2), the employee may demand payment equal to the sum of absentee pay due for the notice period when his employment is terminated by the employer. [Section 82(4) of the Labour Code]

If the employer terminates the employment relationship of the employee, the employment relationship shall cease to exist in accordance with the notice of termination irrespective of whether the termination is proven to be wrongful later, i.e. termination without notice and without giving reasons also terminates the employment relationship with immediate effect.

The employee may not request the reinstatement of the employment relationship on general principle with the court, except

a) if it was terminated in violation of the principle of equal treatment;
b) if it was terminated in violation of the rules on termination, excluding the prohibition of termination stipulated by the parties;
c) if the employment relationship of the protected trade union official was terminated by the employer with termination without the consent of the higher ranking trade union body;
d) if the employee served as an employees' representative (member of the works council, shop steward, or the workers' representative sitting on the supervisory board of a business association) at the time his employment relationship was terminated, irrespective of the title and circumstances of termination;
e) if the employee successfully challenged the termination of the employment relationship by mutual consent or his own legal act therefor.

With respect to the entitlement arising after the reinstatement of the employment relationship and relating to the time spent at work, the period between termination (cessation) and reinstatement of employment shall be deemed time spent at work. [Section 83(1) to (2) of the Labour Code]
The lost income, other allowances and compensation for damages exceeding these elements shall be paid to the employee. The absentee pay of the employee shall be taken into account as lost income.

When calculating the amount of lost income and other allowances, the following shall be deducted from the amount:

(a) the income in fact earned by the employee, or which could have been earned in the given situation within reason; and

(b) the severance pay paid at the termination of the employment relationship. [Section 83(3) to (4) of the Labour Code]

ARTICLE 21: THE RIGHT TO INFORMATION AND CONSULTATION

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a) to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b) to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

Act I of 2012 on the Labour Code (hereinafter referred to as Labour Code) provides for the rules on information and consultation in the general provisions on industrial relations.

Section 233(1) of the Labour Code sets out the definition of information and consultation by transposing the governing provisions of Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community.

During the reporting period the following changes occurred in the rules of the Labour Code as regards Section 21.

Section 175 of Act CCLII of 2013 on the amendment of certain acts relating to the entry into force of the New Civil Code amended with effect from 15 March 2014 the text “individual rights” to “personality rights” in Section 234(3) of the Labour Code as follows:

“Section 234 (3) Any person who is acting in the name or on behalf of the works council or trade union shall be authorised to disclose any information or data acquired in the course of his activities solely in a manner which does not jeopardise the employer’s legitimate economic interest and does not violate personality rights.”

Act LXXIX of 2016 to amend certain employment laws with the purpose of legal harmonization (hereinafter referred to as Amending Act) amended Act XXI of 2003 on the establishment of European Works Councils, means of consultation with

workers and their notification (hereinafter referred to as European Works Council Act) with effect from 8 July 2016 in the subject of right to information and consultation.

Section 40 of the Amending Act repealed Section 1(5) of the European Works Council Act, thereby ensuring that Section 3 of that act (i.e. of the European Works Council Act) is applicable to seagoing personnel as follows:

"Section 3 The obligations regarding the establishment of a European Works Council and the establishment of procedure of informing and consulting employees are as follows:

(a) the central management is responsible for all of the followings if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is domestic: proposal on negotiations and information in connection therewith (Article 3), presentation of information and initiation of negotiations following the establishment of the special negotiating body, assurance of the necessary and justified expenses related to the establishment and to the appropriate work of the special negotiating body and the expenses related to the negotiations (Article 6), measures regarding the number and composition of the members of the European Works Council and information in connection thereon (Articles 13-14), initiation of negotiations with the European Works Council, and presentation of information and negotiations regarding extraordinary conditions (Articles 16-17), further, assurance of the necessary and justified expenses of the activities of the European Works Council (Article 18, Article 21/B), organisation of training (Article 21/B),

(b) according to the description in point (a), the directed management is responsible for the application of the above if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State, but the management subordinated to the central management (directed management) of the branch or undertaking operating in a Member State is domestic;

(c) according to the description in point (a), the representative is responsible for the application of the above if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State, but the community-scale undertaking or the community-scale group has a domestic representative;

(d) according to the description in point (a), the branch of the community-scale undertaking, respectively the undertaking of the community-scale group employing most of its member state employees domestically is responsible for the application of the above, if no representative is designated, if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State."

Section 38 of the Amending Act supplemented Section 20 of the European Works Council Act with by following paragraphs (5) to (7):

"Section 38 (5) A member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, shall be entitled to participate in a meeting of the special negotiating body or of the European Works Council, or in any other meeting under information and consultation procedures established pursuant to Article 7 and 8, where that member

or alternate is not at sea or in a port in a country other than that in which the shipping company is domiciled, when the meeting takes place.
(6) Meetings shall, where practicable, be scheduled to facilitate the participation of members or alternates, who are members of the crews of seagoing vessels.
(7) In cases where a member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, is unable to attend a meeting, the possibility of using, where possible, new information and communication technologies shall be considered."

Section 39 of the Amending Act supplemented the subtitle "Joint provisions" of the European Works Council Act by the following Section 24/A:

"Section 24/A This Act serves the purpose of conformity with Directive (EU) 2015/1794 of 6 October 2015 of the European Parliament and of the Council amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council, and Council Directives 98/59/EC and 2001/23/EC, as regards seafarers."

B. Rules governing public employees

The rules of Act XXXIII of 1992 on the legal status of public employees (hereinafter referred to as Public Employees Act) were modified in the subject of codecision rights of the Public Employee Council in order to establish compliance with the Labour Code as of 1 January 2013. Pursuant to Section 13(14)(a) of the Act CCXVI of 2012 on amendments to certain employment-related acts relating to the Magyary Simplification Programme, Section 16(2) of the Public Employees Act was repealed. Instead of the repealed provision of the Public Employees Act, Section 263 of the Labour Code shall apply with the following derogations:

Section 263 of the Labour Code *"The employer and the works council shall collectively decide concerning the appropriation of welfare funds."*

Otherwise, pursuant to Section 19 of the Public Employees Act amended as of 1 July 2012, Section 235(2), Section 251 and Section 268 of the Labour Code on the provisions for the works council (Chapter XX) shall not apply with respect to the public employee relationship.

C. Rules applicable to public service officials

Section 9(3) of the Act CXCIX of 2011 on Public Service Officials (hereinafter referred to as Public Service Officials Act) prescribes as a common rule of conduct that the entities covered by the Public Service Officials Act shall inform each other of all data, facts and circumstances or the changes thereof, which are deemed substantial for the establishment of public service and the fulfilment of rights and obligations set out therein.

However, Section 10(3) of the Public Service Officials Act also sets out certain rules of conduct for public service officials as regards information, pursuant to which the public service official shall retain all classified information that they have acquired. Furthermore, the public service official shall not give information to unauthorised

persons or bodies concerning facts that have come the his knowledge in the course of his activities and the disclosure of which would be detrimental to or would entail unlawfully advantageous consequences for the state, the public administrative body, his co-worker or the citizens.

Government Decree No 30/2012 (III. 7.) includes the content of main information obligations of the employer in relation to the government service relationship and public service relationship, the deadline for fulfilment, as well as other detailed rules thereof. The information obligations of the employer in relation to the appointment of public service officials are contained in Section 8 of Government Decree No 30/2012 (III. 7.) which cover the governing work order, the start date of the service time required to receive jubilee awards, the expected date of stepping onto the next classification grade, other allowances and their amount, the date of transfer of salary, the date when work is to commence, the rules for establishing the discharge period, the amount of ordinary vacation time and its allocation, as well as the entity exercising employer's rights. Further, pursuant to Section 9 of Government Decree No 30/2012 (III. 7.), the employer shall have the obligation for information about jobs which may be performed as part-time work, teleworking and is permanent or fixed-term employment relationship as well. Pursuant to Section 10 of Government Decree No 30/2012 (III. 7.), the employer shall provide specific information also prior to the departure of the public service official abroad, if the public service official is employed in a manner different from his appointment. Pursuant to Section 11(5) of Government Decree No 30/2012 (III. 7.), employer shall bear the same obligation to give information for public service officials employed in teleworking as in the case of other public service officials.

The Hungarian Government and State Officials Corps (hereinafter referred to as State Officials Corps), on the basis of Section 29(6) of the Public Service Officials Act, shall collaborate, *inter alia*, with consultation rights in the drafting of legislation which influences the employment of the government officials and their professional practice, relates to the mandatory professional examinations prescribed for government officials and concerns State Officials Corps. The opinion of the State Officials Corps shall be sought in issues relating to the government service relationship, in relation to provisions of the central and social security budget concerning persons being in a government service relationship, and in matters of principle of management of the administrative workforce and personal allowances. Pursuant to Section 29(7) of the Public Service Officials Act, the head of the state administrative body shall seek the opinion of the territorial body of the State Officials Corps on rules and regulations within the functions delegated to the employer on the performance of work, working time, resting time, remuneration and allowances of government officials. The territorial body of the State Officials Corps may give opinion on the employer's action or draft thereof concerning a group of government officials taken by the state administrative body having competence in the capital or the county, and may initiate consultation in this context. The state administrative body is not obliged to give information or carry our consultation on the basis of Section 29(8) of the Public Service Officials Act, if this may entail the disclosure of a fact, information, solution or data, which would jeopardise the interests or operation of public service or the legitimate interests or operation of the state administrative body. Pursuant to Section 29(9) of the Public Service Officials Act, members of the State Officials Corps shall not disclose to the public any fact, information, solution or data,

which the state administrative body has revealed to them explicitly as confidential data or with reference to handling it as classified data for the protection of its legitimate interests or operation, or the interests or operation of public service, and shall not use them in any way other than for activities aimed at reaching the objectives set out herein. Pursuant to Section 29(10) of the Public Service Officials Act, members of the State Officials Corps shall only disclose the information acquired in the course of his activities without jeopardising the legitimate interests or operation of the state administrative body, or the interests or operation of public service and without violating personality rights.

Section 196(1) of the Public Service Officials Act — besides consultation — provides for the definition of information within the context of (central and workplace) interest reconciliation, on the basis of which information means transmission of information as related to government service relationship in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations.

Pursuant to Sections 200 to 202 of the Public Service Officials Act, the head of the state administrative body shall seek the opinion of the trade union in the context of workplace interest reconciliation on rules and regulations within the functions delegated to the employer on the performance of work, working time, resting time, remuneration and allowances of government officials [subject matters of public service rules and regulations, Section 200(2) of the Public Service Officials Act]. Furthermore, the trade union may communicate its opinion on the employer's action or draft thereof concerning a group of government officials to the state administrative body, and may initiate consultation in this context [Section 200(3) of the Public Service Officials Act]. In all other cases, the trade union shall be entitled to request information and make proposals as well.

The trade union shall be allowed to inform the government officials at the workplace about issues relating to work relations and employment relationship Section 200(6) of the Public Service Officials Act]. The trade union shall have the right to represent government officials before the state administrative body or its advocacy group in relation to their material, social rights and obligations and rights and obligations related to their living or working conditions, as well as to represent its member under a power of attorney for the protection of his economic and social interests before the courts, authorities or other bodies. [Section 200(8) and (9) of the Public Service Officials Act]

Section 196(2) to (4) of the Public Service Officials Act determine the limitations of the right to information and consultation within the framework of interest reconciliation in the manner and with the purpose coinciding with the above mentioned Section 29(8) to (10) of the Public Service Officials Act.

Section 174(23) of Act CCLII of 2013 on the amendment of certain acts relating to the entry into force of the new Civil Code modifies Section 196 of the Public Service Officials Act relating to information. In Section 196(4) the text "individual rights" shall be replaced by "personality rights".

In Act LII of 2016 on State Officials, with effect from 1 July 2016, the following provisions relate to the information of employees:
Under the title “Redirection for official interest” in relation to the redirection of state officials as follows:

“Section 8 (3) The state official shall be informed in writing at least three working days in advance about ordering redirection and its expected duration.”

In relation to the change of relationship, in accordance with the provisions contained in Section 31:

“Section 31 (1) The rules of the Public Service Officials Act on the change of relationship shall be applied with the derogation that
(a) the employer shall inform the persons concerned about the transformation of the relationship within eight days following the transformation
and ...”.

D. Rules governing the professional members of the armed forces

As of 1 July 2015, Act XLIII of 1996 on the Service Status of the Professional Members of Armed Forces was repealed, and Act XLII of 2015 on the Service Status of Professional Members of Law Enforcement Agencies (hereinafter referred to as “new Service Act”) was introduced instead.

The new Service Act provides for, among the basic principles on service relationship, mutual information obligation between the law enforcement agencies and the professional members thereof within the framework of the obligation to cooperate. The new provision of the new Service Act includes the obligation to cooperate, pursuant to which the persons subject to professional service shall act in accordance with the principle of good faith and fair dealing and mutually cooperate in the course of exercising their rights and fulfilling their obligations. The parties shall inform each other of all data, facts, circumstances or changes, which are deemed substantial for the establishment of service relationship and the fulfilment of rights and obligations set out therein. The new contains provisions on information within the regulations pertaining to trade unions, pursuant to which information shall mean transmission of information as related to service in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations.
As to the right to information and consultation, the new Service Act contains the following main provisions:

“Section 3 The persons subject to professional service shall act in accordance with the principle of good faith and fair dealing and mutually cooperate in the course of exercising their rights and fulfilling their obligations. The parties shall inform each other of all data, facts, circumstances or changes, which are deemed substantial for the establishment of service relationship and the fulfilment of rights and obligations set out therein.

Hungarian Law Enforcement Corps

The Hungarian Law Enforcement Corps (hereinafter referred to as MRK) shall collaborate with consultation rights in the drafting of legislation, which influences the employment of its members and their professional practice, relates to the mandatory professional examinations and concerns the MRK, and shall be requested to give opinion on issues related to the service or public employee relationship.

The head of the law enforcement agency shall request the opinion of the MRK on rules and regulations within the functions delegated to it on the performance of service or work, period of performance of service or working time, resting time, remuneration and allowances of the professional or public employee personnel. The MRK may give opinion on the employer's action, decision or the draft thereof concerning a group of its members and may initiate consultation in this context.

The MRK may, in any issues concerning its functions and competences, turn to the head of the state body having competence in the given matter, and

a) may request information, data, or position in professional issues and issues related to the interpretation of law;
b) may make proposals, initiate measures; and
c) may give its opinion in relation to the operation of the body under its control or a law, legal instrument of state administration or other decision issued by such body which concern a group of members of the MRK, or initiate the modification or revocation thereof. The addressed body shall give substantive response to the address within thirty days. If the information, response or measure does not fall under the competence of the addressed body, such body shall transfer the address within three days to the body having competence, and shall at the same time inform the holder of the rights thereof.

Section 306 (1) The MRK may, in any issues concerning its functions and competences, turn to the head of the state body having competence in the given matter, and

(a) may request information, data, or position in professional issues and issues related to the interpretation of law (for the purposes of Sections 306 to 308, hereinafter jointly referred to as "information");

(b) may make proposals, initiate measures; and

(c) may give its opinion in relation to the operation of the body under its control or a law, legal instrument of state administration or other decision issued by such body which concern a group of members of the MRK, or initiate the modification or revocation thereof.

(2) The addressed body shall give substantive response to the address within thirty days. If the information, response or measure does not fall under the competence of the addressed body, such body shall transfer the address within three days to the body having competence, and shall at the same time inform the holder of the rights thereof."

Interest Representation Council of the Law Enforcement Sector

The subject matters of living and working conditions and employment conditions of the employed professional (and public employee) personnel, as well as the subject matters falling under the competence of the MRK by virtue of this law shall fall under the competence of the sectoral interest representation council. The sectoral interest

representation council shall be entitled to request information and make proposals in other issues falling under its competence.

In the Service Act under title 122. “Law enforcement interest reconciliation fora”, Section 308(6) mentions within the entitlements of the sectoral interest representation council the right to request information as follows:

“Section 308 (5) The subject matters of living and working conditions and employment conditions of the employed professional and public employee personnel, as well as the subject matters falling under the competence of the MRK by virtue of this law shall fall under the competence of the sectoral interest representation council.
(6) The sectoral interest representation council shall be entitled to request information and make proposals in other issues falling under its competence under paragraph (5).”

Trade unions

In this respect, the law considers information the transmission of information as related to service in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations.

However, it stipulates that the law enforcement agency is not obliged to provide information, if this may entail the disclosure of a fact, information, solution or data, which would jeopardise the interests of law enforcement or the legitimate interests or operation of the law enforcement agency.

Any person who is acting in the name or on behalf of the trade union shall not disclose to the public any fact, information, solution or data, which the law enforcement agency has revealed to them explicitly as confidential data or with reference to handling it as classified data for the protection of its legitimate interests or operation, or the interests of public service, and shall not use them in any way other than for activities aimed at reaching the objectives set out herein. Any person who is acting in the name or on behalf of the trade union shall be authorised to disclose any information or data acquired in the course of his activities solely in a manner which does not jeopardise the law enforcement agency’s legitimate interests or the law enforcement interests and does not violate personality rights.

The director general responsible for staff table shall disclose his position on the comments or proposals of the trade union and his response to the information within 30 days in writing with giving reasons.

The trade union may request information from the law enforcement agency about the economic and social interests relating to the service of the professional members of the law enforcement agencies. The trade union may disclose its opinion on the employer’s action, decision or the draft thereof concerning the professional member of the law enforcement agency with the law enforcement agency.

The definition of information according to the new Service Act is the following:

“Section 311 (1) For the purposes of this chapter, information shall mean transmission of information as related to service in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations.
(2) However, the law enforcement agency is not obliged to provide information, if this may entail the disclosure of a fact, information, solution or data, which would jeopardise the interests of law enforcement or the legitimate interests or operation of the law enforcement agency.
(3) Any person who is acting in the name or on behalf of the trade union shall not disclose to the public any fact, information, solution or data, which the law enforcement agency has revealed to them explicitly as confidential data or with reference to handling it as classified data for the protection of its legitimate interests or operation, or the interests of public service, and shall not use them in any way other than for activities aimed at reaching the objectives set out herein.
(4) Any person who is acting in the name or on behalf of the trade union shall be authorised to disclose any information or data acquired in the course of his activities solely in a manner which does not jeopardise the law enforcement agency’s legitimate interests or the law enforcement interests and does not violate personality rights.”

In the new Service Act, the right to information of trade unions was regulated under the title “*Trade union interest reconciliation with the law enforcement agency*” in Section 313 and in Section 314(4) and (5) as follows:

“Section 313 (1) The designated representative of the law enforcement agency and the elected official of the trade union shall participate in the reconciliation of interests relating to the service at the law enforcement agency. The negotiating parties may invite experts to solve disputed issues. The director general responsible for staff table shall disclose his position on the comments or proposals of the trade union and his response to the information within 30 days in writing with giving reasons.
(2) The trade union may request information from the law enforcement agency about the economic and social interests relating to the service of the professional members of the law enforcement agencies.
(3) The trade union may communicate its opinion on the employer’s action, decision or draft thereof concerning the professional member of the law enforcement agency to the law enforcement agency.
(4) A trade union is entitled to inform the professional members of the law enforcement agencies about issues related to interest reconciliation and service.
(5) The law enforcement agency, after consulting with the trade union, shall ensure the possibility for the trade union to disclose information relating to its activity at the law enforcement agency as customary at the place of service or in any other satisfactory manner.”

“Section 314 (4) The trade union shall make known its opinion in writing with respect to the employer’s action referred to in paragraph (1) above within eight days of receipt of the law enforcement agency’s written notice. If the trade union does not agree with the proposed action, the statement shall include the reasons therefor. Justification is considered well-founded if the execution of the proposed action would result in discrimination due to collaboration in the interest representation activities of

the trade union. Failure by the trade union to convey its opinion to the law enforcement agency within the above specified time limit shall be construed as agreement with the proposed action.
(5) The trade union shall notify the law enforcement agency about the body entitled to express agreement also indicating the professional member of the law enforcement agencies entitled to protection."

Act CCV of 2012 on the legal status of private soldiers (hereinafter "Private Soldiers Act") in force as of 1 July 2013, contains the following provisions on information:

"Section 14 (1) The parties shall mutually inform each other of all data, facts, circumstances or the changes thereof, which are deemed substantial for the establishment, modification or termination of service relationship and the fulfilment of rights and obligations set out therein.
(2) Information shall be provided in such time and fashion that allows for the exercise of rights and the fulfilment of obligations."

The rules of the Private Soldiers Act on the obligation to provide information relating to trade union interest representation are as follows:

"Section 27 (5) In the system of relationships between the Defence Forces and the trade union
(a) information shall mean the transmission of information as related to service in order to enable the recipients to acquaint themselves with the subject matter and to examine it, and to formulate an opinion to prepare for consultations,
(b) interest reconciliation shall mean exchange of views and dialogue, which shall take place in such fashion as consistent with the objective thereof and ensuring the proper representation of the parties, the direct exchange of views, substantive discussions and the possibility to reach an agreement.
(6) However, the Defence Forces are not obliged to provide information or carry out interest reconciliation, if this may entail the disclosure of a fact, information, solution or data, which would jeopardise the interests of the service, the lawful and normal operation of the Defence Forces, the maintenance of public trust and the performance of service duties.
(7) Any person who is acting in the name or on behalf of the trade union shall be authorised to disclose any fact, information, solution or data not classified as data of public interest acquired in the course of his activities in a fashion which does not violate individual rights and does not jeopardise defence and national security interests.

Section 28 (1) The Defence Forces and the trade union shall inform each other in writing about the person entitled to represent them, as well as the official of the trade union. The designated representative of the Defence Forces and the elected official of the trade union participate in the reconciliation of interests. The parties may invite experts to the negotiation of disputed issues.
(2) The minister shall seek the opinion of the trade union representing at least 10 % of the members of staff on rules and regulations within the functions delegated to the minister on performance of service, period of performance of service and resting time, remuneration and allowances.

(3) Apart from paragraph (2), the trade union representing at least 10 % of the members of staff may communicate its opinion on the employer's decision or draft thereof concerning at least 10 % of the members of staff to the Defence Forces, and may initiate consultation in this context.
(4) The trade union representing at least 10 % of the members of staff may request information from the Defence Forces about the economic and social interests relating to service of the members of staff, thus especially about the execution of legislation relating to the service relationship and the performance of agreements concluded with the Defence Forces. Information must be provided within 15 days.
(5) The trade union may initiate the preparation and uniform interpretation of the regulation concerning a member of the staff, and may make a proposal on its content.
(6) A trade union is entitled to inform the members of the staff about issues related to interest reconciliation and service. The Defence Forces, after consulting with the trade union, shall ensure the possibility for the trade union to disclose information relating to its activity at the Defence Forces as customary at the place of service or in any other satisfactory manner.
(7) The trade union may represent its member in cases related to his service relationship to promote the exercise of his rights and to protect his economic and social interests. The member of the staff shall arrange for representation and the Defence Forces shall respect his right thereto.

Section 29 (1) The consent of the higher ranking trade union body is required for terminating the service relationship by the Defence Forces with exemption from service of a member of the staff designated by the trade union according to the provisions of paragraph (2) as serving as an elected trade union official in the trade union representing at least 10 % of the staff and having at least 30 members from the defence forces organisation, unless exemption is mandatory pursuant to this act. The higher ranking trade union body shall be notified about the proposed employer's decision in advance.

…
(3) The trade union shall make known its opinion in writing with respect to the proposed employer's decision referred to in paragraph (1) above within eight days of receipt of the Defence Forces' written notice. If the trade union does not agree with the proposed employer's decision, the statement shall include the reasons therefor. Justification is considered well-founded if the execution of the employer's decision is contrary to Section 27(3)(d). Failure by the trade union to convey its opinion to the Defence Forces within the above specified time limit shall be construed as agreement with the proposed employer's decision.
(4) The trade union shall notify the Defence Forces about the body entitled to express agreement also indicating the member of staff entitled to protection."

The provisions on sectoral interest reconciliation, and in particular on the subject of information, are to be found under a separate title among the points on trade union interest reconciliation of the Private Soldiers Act:

"Section 30 (2) The sectoral interest representation council shall be entitled to give opinion, request information and make proposals in the subject matter of living and working conditions and employment conditions of the members of staff. The sectoral interest representation council shall be convened at least every six months."

Under the title of “Appointment into the first military rank and into the first service rank” of the Private Soldiers Act the rules on the obligation of the employer to provide information were introduced with the content below:

“Section 36 (5) The entity exercising employer’s rights shall fulfil its obligation to provide information related to the establishment of service relationship in accordance with the ministerial decree. The information shall cover the circumstances of mandatory data processing related to the service relationship.”
Provisions on information were also included in the rules on the modification of service relationship as regulated in the Private Soldiers Act:

“Section 44 (1) During the service relationship, the member of the staff shall, upon the written request of the entity exercising employer’s rights, justify with a statutory certificate within the time limit set out in the request that he is not subject to any grounds for exclusion specified in Section 31(2). The rules of procedure on the request and the fulfilment thereof, as well as the obligation to reimbursement of the Defence Forces shall be determined in a ministerial decree.

…

(3) The entity exercising employer’s rights shall inform the members of the staff on the particular obligations and allowances associated with the service, as well as the conditions on the fulfilment and use thereof during the service relationship. The subject matters and manner of information shall be determined by a ministerial decree.”

The following has been prescribed for the obligation of the entity exercising employer’s rights under the Private Soldiers Act to provide information:

“Section 78 (1) Within the framework of service relationship, the entity exercising employer’s rights shall, in particular

…

(e) provide the information necessary for performing the duties and guide or lead the performance of service;

…

(i) inform in advance the members of the staff about the technical tools for checking the obligation related to the service.”

Under the title “Request and legal remedies” of the Private Soldiers Act, the deadlines for provisions of information related to requests were determined as follows:

“Section 179 (1) The member of the staff may submit requests related to issues concerning the service relationship in writing to the entity exercising employer’s rights by keeping the chain of command.
(2) The entity exercising employer’s rights shall act on the basis of paragraph (1) within 30 days from the receipt of the request, of which it shall inform the applicant within 15 days.”

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

The aim of the programme entitled “support for legal services provided to promote legal employment” financed by the EU is to disseminate legal employment and legal awareness with the support of the legal assistance network, which provides legal assistance in labour law, social security and taxation. Entrepreneurship and other employment topics are free of charge for both employers and employees. Information may be requested in person (in 136 settlements, 149 offices) in less developed regions of Hungary, online or by telephone. The service is funded on joint rules and principles to provide for the quality and accessibility of information. The service providers are organisations of social partners which were selected under calls for proposals by region (GINOP 5.3.3-16). The financial envelope of the programme is HUF 3.5 billion. The execution of the programme started in July 2016, and since then it has provided information in 51,000 cases for approximately 36,000 clients. The network provides assistance and information for around 3,000 per month.

3) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **ECSR requests information concerning the personal scope of the legislation on ensuring the right to information and consultation, and in particular the applied minimum number of workers.**

Pursuant to the 2016 amendment of Section 70/A of Act XCIII of 1993 on Labour Safety (hereinafter referred to as Labour Safety Act), the employer shall organise an election for a labour safety representative from at least twenty workers employed instead of the previous fifty workers (in effect from: 8 July 2016). With the amendment, the personal scope now covers all employment relationship forms (e.g. public benefit employment, government employment, public service or civil service relationship, public employee relationship, service relationship of judges, law enforcement employees and public prosecutors, the relationship of employment in the case of cooperative membership) compared to the previous limitation to employment relationship only.

The detailed rules on the consultation with workers are regulated in Section 70 of the Labour Safety Act.

- **ECSR requests information concerning the control and supervisory body of the enforcement of the right of workers to information and consultation.**

The organisations concerned need to monitor whether in relation to their right to consultation and information the competent bodies/entities/employer(s) have fulfilled their obligation. There is no separate entity established to this end on corporate level.

The employer, the works council or the trade union may turn to court for the breach of rules related to information or consultation within five days.

The court shall hear such cases within fifteen days in non-contentious proceeding. The decision of the court may be appealed within five days from the date of delivery of the decision. The court of second instance shall deliver its decision within fifteen days. [Section 289(1) to (2) of the Labour Code]

ARTICLE 22: THE RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND WORKING ENVIRONMENT

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a) to the determination and the improvement of the working conditions, work organisation and working environment;

b) to the protection of health and safety within the undertaking;

c) to the organisation of social and socio-cultural services and facilities within the undertaking;

d) to the supervision of the observance of regulations on these matters.

1) PRESENTATION OF THE GENERAL LEGAL FRAMEWORK, THE NATURE, CAUSES AND SCOPE OF THE REFORMS

A. Rules governing employment

The following provisions of the Fundamental Law provide for the following in the subject of occupational safety in effect from 1 January 2012:

Article XVII (3)
"(3) Every employee shall have the right to working conditions which respect his or her health, safety and dignity."

Article XX
"(1) Everyone shall have the right to physical and mental health.
(2) Hungary shall promote the effective application of the right referred to in Paragraph (1) by […] organising safety at work and healthcare provision […]."

Section 15 of Act LXXIX of 2016 to amend certain employment laws with the purpose of legal harmonisation amended as follows Act XCIII of 1993 on Labour Safety (hereinafter referred to as "Labour Safety Act") in relation to the labour safety of the labour safety representative:

"Section 76 (3) The rules contained in Section 273(1), (2) and (6) of the Labour Code shall apply to the labour safety of labour safety representatives with the derogation that higher ranking trade union body shall be the committee, and in the absence thereof, the members of the electoral committee established during the election of the labour safety representative."

Section 273 of Act I of 2012 on the Labour Code (hereinafter referred to as Labour Code) shall be governing, which provides for the labour safety of trade union officials. For the purposes of Section 76(3) of Act XCIII of 1993 on Labour Safety (hereinafter

referred to as “Labour Safety Act”), the following provisions should be taken into account accordingly:

“Section 273 (1) The consent of the higher ranking trade union body is required for terminating the employment relationship by notice of an employee designated according to the provisions of paragraph (3) as serving as an elected trade union official (hereinafter referred to as “official”), and for the employer’s actions referred to in Section 53.
(2) Such officials shall be entitled to protection under Subsection (1) for the duration of their term in office and for a period of six months thereafter, provided that the official held the office for at least twelve months. (...)

(6) The trade union shall make known its opinion in writing with respect to the employer’s action referred to in paragraph (1) above within eight days of receipt of the employer’s written notice. If the trade union does not agree with the proposed action, the statement shall include the reasons therefor. Failure by the trade union to convey its opinion to the employer within the above specified time limit shall be construed as agreement with the proposed action.”

B. Rules applicable to public service officials

Apart from the right of trade unions to information and consultation mentioned at Section 6 and 21, the Hungarian Government and State Officials Corps (hereinafter referred to as “State Officials Corps”) established on 1 March 2012 also has a right to consultation, give opinions and make proposals — already mentioned in part at Section 21 — in respect of the working conditions of government officials at national and territorial level. Pursuant to Section 29(6)(f) of Act CXCIX of 2011 on Public Service Officials, the State Officials Corps may initiate with the Government the establishment and modification of living, working and employment conditions of government officials, and the drafting of legislation on practising their profession.

C. Rules governing the professional members of the armed forces

Act XLII of 2015 on the Service Status of Professional Members of Law Enforcement Agencies (hereinafter referred to as new Service Act) provides for the following in relation to the Hungarian Law Enforcement Corps (hereinafter referred to as MRK):

The Law Enforcement Branch
a) has the right to make proposals to improve the quality of the activities of law enforcement agencies;
b) may initiate with the Government through the minister the modification of working and employment conditions of its members, and the drafting of legislation on practising the profession;
c) collaborates with consultation rights in the drafting of legislation, which influences the employment of its members and their professional practice, relates to the mandatory professional examinations and concerns the Law Enforcement Branch;
d) shall be requested to give opinion on issues related to the service or public employee relationship; and
e) the head of the law enforcement agency shall request the opinion of the Law Enforcement Branch on rules and regulations within the functions delegated to it on the performance of service or work, period of performance of service or

working time, resting time, remuneration and allowances of the professional personnel.

Furthermore, Section 292(5) to (6) of the new Service Act stipulates that:

"(5) The head of the law enforcement agency shall request the opinion of the Law Enforcement Branch on rules and regulations within the functions delegated to it on the performance of service or work, period of performance of service or working time, resting time, remuneration and allowances of the professional or public employee personnel.
(6) The Law Enforcement Branch may give opinion on the employer's action, decision or draft thereof concerning a group of its members and may initiate consultation in this context."

Section 313 of the new Service Act stipulates in respect of trade unions that the trade union

a) may request information from the law enforcement agency about the economic and social interests relating to the service of the professional members of the law enforcement agencies;
b) may disclose its opinion on the employer's action, decision or draft thereof concerning the professional member of the law enforcement agency with the law enforcement agency,
c) has the right to represent professional members of the law enforcement agencies before the law enforcement agency or its advocacy group in the subject of service relationship in relation to their material, social rights and obligations and rights and obligations related to their living or working conditions;
d) to represent its member under a power of attorney in cases concerning his service relationship and for the protection of his economic and social interests before the courts, authorities or other bodies.

Pursuant to of Act CCV of 2015 on the legal status of private soldiers (hereinafter referred to as Private Soldiers Act), the entity exercising employer's rights shall provide in particular for the conditions of safe and healthy working conditions under the service relationship. [Section 78(1)(c) of the Private Soldiers Act]

Pursuant to Section 24(2) of the Order No 126/2011 (XI.25.) of the Minister of Defence, the aim of the internal labour safety audit is to determine whether the conditions for service and work fulfil the requirements laid down in the rules of labour safety at the national defence organisation.

Point 18 of the joint action No 28/2016 (HK 5.) of the Secretariat of the Secretary of State for Public Administration of the Ministry of Defence and the Department for Administration and Legal Representation of the Ministry of Defence on the Organisational and Labour Safety Regulations of the Ministry of Defence sets out that the personal rules on occupational safety and health are provided for in Act XCIII of 1993 on Labour Safety, pursuant to which the personal staff shall cooperate with the entity exercising employer's rights, the work supervisor, the labour safety expert and the occupational health doctor to maintain occupational safety and health at the workplace.

Under point (f) of subsection 15 of the action, the labour safety expert shall regularly check working conditions and circumstances, and make proposals on remedying shortcomings and addressing the deficiencies identified.

Point 156 of the action stipulates that the existence of conditions for occupational safety and health at the Ministry of Defence and the fulfilment and meeting of labour safety requirements provided for in legislation, standards, orders and internal regulations shall be verified regularly within the framework of internal audits and during labour safety checks and inspections. The persons concerned with the checks shall be designated in a separate plan.

Pursuant to Section 23(1) of the Decree No 1/2009 (I. 30.) of the Ministry of Defence on the differing labour safety requirements and rules of procedure relating to the Hungarian Defence Forces and military national security services, the director general responsible for staff table shall, within its competence as supervisor, analyse and control the status, effectiveness of labour safety, the fulfilment of labour safety obligations, and shall identify derogations from labour safety requirements and the reasons therefor. According to paragraph (2): The director general responsible for staff table shall, within its competence as supervisor, perform a comprehensive labour safety audit at least once a year.

D. Legislation pertaining to labour safety

- **Act LXXXIV of 2013 on the amendment of certain acts relating to administrative proceedings and certain official public registers and other acts**

It revised Section 83(4) of the Labour Safety Act and it classified the registers kept by the occupational safety and health authority as official public registers. The aim of the amendment was for instance to support the employment of disabled workers.

- **Act CLXXIX of 2013 amending certain acts related to employment**

The Act revised the order of risk assessment with respect to Section 54(3) of the Labour Safety Act, clarified the related duties of the employer (when, under what circumstances and conditions is the revision of risk assessment justified), and specified the time limit for the revision of risk assessment in the minimum of 3 years.

Section 88/A(1) of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services allows for the possibility for an act or government decree to preclude or restrict that the client opens regulatory inspections at his request. This provision is hard to apply during labour safety procedures, because it would prove that the employer had provided for the conditions for meeting the necessary labour safety requirements at the time of the regulatory inspection, but this fact might not be valid for the next moment in time, therefore, the law set out Section 82/C(2) of the Labour Safety Act accordingly.

The amendment of the provisions of the Act on the official register referring to Section 83/B of the Labour Safety Act was of technical nature: on the one hand, it endeavoured to establish the widest possible convergence with the rules of the employment authority register, and clarified the cases where the legal basis of the register is a court decision.

It means harmful exposure but not disease, therefore, it was appropriate (along the lines of occupational accidents, where also only serious/lethal occupational accidents and occupational accidents with a defined health damage must be investigated by the occupational safety and health authority) to provide for the possibility of an official

investigation instead of a mandatory official investigation; the act amends Section 84(1)(c) of the Labour Safety Act accordingly.

The amendment in Section 84(1)(g) and Section 87(11) and (12) served the purpose of conformity with the definition of Regulation (EC) No 1272/2008 of the European Parliament and of the Council (mixture instead of preparation).

The amendment of the definition of organised employment regulated by Section 87 of the Labour Safety Act was needed because the definition of enforcement relationship was not defined in the system of the Labour Safety Act, however, the work to be regulated was the work performed by the convicts and persons in provisional custody during the period of custody. From the definition in force prior to the amendment, it was hard to deduct that community service work applied in criminal proceedings also qualifies as organised employment.

The investigation, reporting and registration of occupational accidents does not depend on what is the citizenship of the worker of the Hungarian employer; the act amends Section 69 of the Labour Safety Act accordingly.

- **Act VIII of 2015 amending certain acts related to the transformation of the territorial state administration system**

With the amendment of the act on labour safety it is ensured that in the capital and county government offices the functions and powers are delegated to the capital and county government office as the occupational safety and health authority. Therefore, Section 84(1) was clarified, and following the amendment, the Labour Safety Act does no longer contain the rights of the occupational safety and health inspector, but that of the occupational safety and health authority. In this context Section 84(1)(b) and (g) and paragraphs (2), (3) and (4) were amended (technical corrections).

- **Act LXIV of 2016 amending certain acts related to the entry into force of Act LII of 2016 on state officials**

The act, taking due course of the provisions of the Labour Code, amended Section 5 of the Labour Safety Act by providing for the reconciliation of interests related to labour safety, as well as for the protection of the labour safety interests of employees, defining the rights and obligations of the representatives of labour safety, without prejudice to the rights of employees' interest representation organisations related to labour safety which are regulated in other legal regulations, particularly in the Labour Code, and in the acts on public service officials, state officials and on the legal status of public employees.

The definition of “organised employment” in Section 87(9) of the Labour Safety Act was also clarified. On the basis of the provisions of the new Labour Code, the group of employees employed by the state were also specified.

- **Act LXXIX of 2016 amending certain employment acts with the purpose of legal harmonisation**

The act mended an old obligation, because the publication of the national economic report in the Hungarian Official Gazette has not been regulated until now, and this is remedied by the new paragraph (4) in Section 14 of the Labour Safety Act.

With respect to labour safety harmonisation, Act V of 2013 on the new Civil Code does not regulate the rules on general contracting as provided for in Section 401 of Act IV of 1959 on the (old) Civil Code, therefore, it has become necessary to omit the reference in Section 40(2) of the Labour Safety Act and to draft a new legislative provision.

The Act clarified the provision in Section 42(b) of the Labour Safety Act which contains the obligations of the employer related to personal protective equipment. In this context Section 44(1) was clarified.

Pursuant to Act XLVII of 1997 on the management and protection of health-care and related personal data, the employer shall not be treated as data controller during the investigation of an occupational accident. However, the occupational health service may process healthcare data and request information on the treatment and condition of the patient. The employer does not have the knowledge with which it could assess the healthcare issues arising during an accident (e.g. deciding on the severity and time for healing, etc. when filling in the documentation and the protocols of the occupational accident). With a view to this, the act stipulated that the doctor of the occupational health basic service provider at the employer should be involved in the investigation, if necessary, with the stipulation that the doctor of the occupational health basic service provider shall participate in the investigation of all serious occupational accidents [Section 64(4) of the Labour Safety Act].

Pursuant to Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, the employers shall consult with the workers and/or their representatives in all issues related to safety and health at work. In accordance with the Directive, the Act amended Section 70/A of the Labour Safety Act with the justification that with the change in economic circumstances, 99.5 % of registered undertakings belonged to small and medium-sized enterprises having no more than 49 employees. Consequently, it was necessary to reduce the number of workers employed needed for the election of a labour safety representative. With the entry into force of the provision, an election for a labour safety representative shall be organised uniformly at all employers covered by the definition organised employment under the Labour Safety Act having at least twenty workers employed.

In compliance with the Labour Code, the act amended the rules on the election of labour safety representatives. It clarified that Section 238 of the Labour Code shall apply to the election of a labour safety representative. However, to ensure the independence of labour safety representatives, it provided for that apart from the grounds of exclusion enshrined in Section 238(2) of the Labour Code, persons may not be elected to serve as labour safety representatives who perform labour safety duties ordered the employer as a principal activity at the employer under an employment relationship.

The rules on the labour safety protection of labour safety representatives are also clarified, pursuant to which all labour safety representatives elected at the employer shall be entitled to the labour law protection under Section 273(1) of the Labour Code for the duration as specified in Section 273(2) of the Labour Code.

To introduce electronic labour safety notifications, it was necessary to repeal Section 82/B of the Labour Safety Act (Repealing the prohibition of electronic correspondence).

With the termination of the power of the occupational safety and health authority to act in case of failures, the employee actually committing the failure could not be sanctioned for the failure. In order for the authority to be able to sanction the exclusive irregular work of the employee beyond the responsibility of the employer, the act introduced the possibility of administrative penalty. [Section 82/D(1) to (2) of the Labour Safety Act]

It shall be the duty of the occupational safety and health authority to process occupational accident protocols. The Hungarian social security number shall be indicated on the occupational accident protocols. The occupational safety and health authority may become familiar with and process the personal identification and health-related data of the employees concerned for the reasons and extent necessary. This amendment provided for the authorisation by an act for the occupational safety and health authority to process personal data under Section 5(1)(b) of the Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information. The occupational safety and health authority is entitled to the processing of health data any way under Section 15/A(2) of Act XLVII of 1997 on the management and protection of health-care and related personal data during the investigation of occupational accidents and diseases. [Section 83/C(1) of the Labour Safety Act]

Prior to the amendment of the provision of the Labour Safety Act, the employer was not required to report, investigate and register the occupational accident after 3 years from the occurrence of the occupational accident as provided for in law. To ensure the enforcement of the rights of the employees, the act stipulates that the rules on civil law shall apply to limitation.

- **Act CXLV of 2016 amending certain acts related to employment**

The act amended Section 66(1) of the Labour Safety Act. The aim of the amendment was to have the workers take their reporting obligation seriously. The sanction applied by the amendment reduces the abuses of the reporting obligation, while not violating the rights of workers. The possibility of legal remedy (if the employer does not consider the accident an occupational accident) is still available for the workers. (Section 66 of the Labour Safety Act)

With the amendment of Section 9(4) and Section 88(3)(c) of the Labour Safety Act, and the introduction of Section 70(5), optimal organisation and operation of the labour safety activity and the labour safety interest representation becomes possible at the Hungarian Defence Forces, including certain issues related to performing regulatory activities and the determination of interest reconciliation levels that are better fitted to the structure of the Hungarian Defence Forces.

To introduce electronic labour safety notifications, the act amended the provision of the Labour Safety Act on the restriction of electronic administration, which regulated notification Under Section 68(1) of the Labour Safety Act, thereby establishing the possibility for electronic notifications. To make simple and straightforward notifications, the act supplemented the Labour Safety Act with a new annex (No 1).

The act declares pursuant to Section 88(4)(g) of the Labour Safety Act (provision with the purpose of harmonisation) that the reason for amendment is the establishment of Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC (hereinafter referred to as “PPE Regulation”). The PPE Regulation modified the previous designations, thereby making it necessary to modify the Labour Safety Act.

The previous CE type-certificates are valid until 21 April 2023, therefore, the definitions contained in the Labour Safety Act must be kept in effect. The definition contained in the amendment makes reference to the PPE Regulation instead of the Hungarian legislation, because the Hungarian legislation is not harmonised fully with the PPE Regulation. The amendment of the Hungarian legislation on the requirements and certification of personal protective equipment with the purpose of legal harmonisation will be finished with entry into force on 1 January 2018 (the PPE Regulation shall apply in its entirety from 21 April 2018. To publish the new legislation, the enabling provision of the Labour Safety Act must be modified.)

The Act amended the provision contained in Section 83/C(1) of the Labour Safety Act. The minister responsible for employment policy shall perform the state control of labour safety, within the framework of which he shall manage the work of the occupational safety and health authority as the professional manager. The professional management performed by the minister responsible for employment policy shall cover the professional management of occupational health and security as well. Within the framework of professional management, it was necessary to empower the professional manager separately to become familiar with and process the personal identification and health-related data of the employees concerned in relation to the revision of documents of office inspections, supervisory proceedings and investigations (e.g. occupational accident or disease), irrespective of second-level exercise of functions.

The interpretative provisions in Section 87 of the Labour Safety Act were supplemented by two new points 1/I and 1/J. Both points interpret the EU conformity of personal protective equipment.

Amendment of labour safety decrees in the reporting period (2013-2016)

Decrees amended in 2013:

- Decree No 5/1993 (XII. 26.) of the Ministry of Labour on the execution of certain provisions of Act XCIII of 1993 on labour safety was amended by Decree No 63/2013 (XII. 17.) of the Ministry for National Economy. It has become necessary to modify the implementing decree in relation to the amendment of the Labour Safety Act. The main direction of the amendment covered the investigation of occupational accidents by the employer; the formal requirements of occupational accident protocols were modified among others and the rules on fillings in such protocols also changed.
- Decree No 17/2013 (VI. 4.) of the Ministry for National Economy on the specific rules pertaining to the designation, activities and control of organisations to assess conformity of personal protective equipment also amended the Decree No 47/1999 (VIII. 4.) of the minister of national economy on the publication of the Lifting Machines Safety Regulation. The amendment concerned the annex to the Lifting Machines Safety Regulation in the subject of temporary security review of lifting machines.
- Decree No 45/2013 (X. 14.) of the Ministry for National Economy amending Decree No 11/2003 (IX. 12.) of the Ministry of Employment and Labour on the safety regulations for industrial rope access activities practically rewrote the original legislation, and the line of amendments started from the interpretative provisions to the final provisions. The main reason for the amendments was to regulate as exactly as possible the rules of performing this extremely dangerous activity.
- Decree No 55/2013 (XII. 4.) of the Ministry for National Economy amending certain occupational health ministerial decrees amended the following decrees:

1. Amendment of Decree No 27/1995 (VII. 25.) of the Ministry of Welfare on occupational health services. This includes amendments mainly related to the employability expert opinion and its personal scope.
2. Amendment of Decree No 33/1998 (VI. 24.) of the Ministry of Welfare on the medical examination of and report on occupational, professional and personal hygienic aptitude. First, it clarified the personal and material scope of the decree by explaining to what extent the disability of the job-seeking person examined influences the performance of work in different occupations, and detailing the employment restriction or exclusion with which the employee (in case of seasonal work or casual work under simplified employment or in case of public benefit employment), the offender (in case of community service work applied in misdemeanour proceedings) or the convict (in case of community service work applied in criminal proceedings) may perform activities.

Decrees amended in 2014:

- Amendment of Decree No 27/1996 (VIII. 28.) on the reporting and investigation of occupational diseases and cases of increased exposure [Decree No 55/2014 (XII. 31.) of the Ministry for National Economy]. The main direction of the amendment was to increase the efficiency of legal remedy, because employees suffering from occupational disease only have a limited possibility to enforce his potential legitimate claims.
- Amendment of Decree No 33/1998 (VI. 24.) of the Minister of Public Welfare on the medical examination of and report on occupational, professional and personal hygienic aptitude [Decree No 13/2014 (III. 14.) of the Ministry for National Economy]. The amendment established the validity period of the employability expert opinion in 1 year.

Decrees amended in 2015:

- Amendment of Joint Decree No 25/2000 (IX. 30.) of the Ministry of Health and the Ministry of Social and Family Affairs on the chemical security of workplaces [Decree No 21/2015 (VIII. 28.) of the Ministry for National Economy]. On the one hand, the amending decree includes detailed provisions with respect to the definitions (e.g. hazardous materials, mixtures), and recorded several EU Regulations and Directives (so-called REACH Regulations) in relation to the completion of employer risk assessment, as well as clarifications on data sheets.
- Amendment of Decree No 26/2000 (IX. 30.) of the Ministry of. Health on the protection and prevention of workers from the risks related to exposure to carcinogens [Decree No 21/2015 (VIII. 28.) of the Ministry for National Economy]. The amending decree clarified issues relating to carcinogenic and mutagenic materials in accordance with the EU CLP Regulations.
- Decree No 27/1996 (VIII. 28.) of the Minister of Public Welfare on the reporting and investigation of occupational diseases and cases of increased exposure was amended by Decree No 9/2015 (III. 31.) NGM of the Ministry for National Economy. This decree clarified primarily the provisions concerning the reporting and registration of occupational diseases.
- Amendment of Decree No 2/1998 (I. 16.) of the Ministry of Labour on the safety and health protection signs applied at workplaces [Decree No 21/2015 (VIII. 28.) of the Ministry for National Economy]. Amendment is done for alignment with Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.
- Joint Decree No 4/2002 (II. 20.) of the Ministry of Health and the Ministry of Social and Family Affairs on the implementation of minimum labour safety requirements at temporary or mobile construction sites was amended by Decree

No 9/2015 (III. 31.) of the Ministry for National Economy. The decree clarified that the contractor shall send the prior notice under Annex 3 prior to the establishment of the construction site to the district office of the capital and county government office having competence over the construction site as being occupational safety and health authority (hereinafter referred to as occupational safety and health authority) in case its activity exceeds 30 working days and more than 20 workers perform work at the site simultaneously, or if the volume of planned work exceeds 500 man-days.

Decrees amended in 2016:

- Decree No 33/2016 (IX. 8.) of the Ministry for National Economy amended Decree No 5/1993 (XII. 26.) of the Ministry of Labour on the execution of certain provisions of Act XCIII of 1993 on labour safety. We have already covered the substantial content of the amendment of this decree in relation to the amendment of the Labour Safety Act.
- A new legislation was established with Decree No 10/2016 (IV. 5.) of the Ministry for National Economy on the minimum level of safety and health requirements for work equipment and their use, which was replaced by Decree No 14/2004 (IV. 19.) of the Minister of Employment and Labour. The structure of the decree serves the purpose of conformity with Directive 2009/104/EC of 16 September 2009 of the European Parliament and of the Council. The codified Directive does not separate the provisions on work equipment and their use or the provisions on general and specific parts. This causes difficulties in interpretation (Annex I of the Directive contains the specifications on work equipment, while Annex II contains specifications on their use).
- With Decree No 18/2016 (VI. 9.) of the Ministry for National Economy Decree No 11/2003 (IX. 12.) of the Ministry of Employment and Labour on the safety regulations for industrial rope access activities was amended. Clarification was made primarily in the subject of interpretative provisions and the stipulation relating to the technical and organisational conditions for performing the activities.
- New legislation was established with Decree No 1/2016 (I. 5.) of the Ministry for National Economy on the technical security requirements and official supervision of the storage tanks and containers for hazardous liquids and melts, at the same time, Decree No 11/1994 (III. 25.) of the Minister of Industry and Trade on the storage tanks for hazardous liquids and melts was repealed.
- New legislation was established with Decree No 2/2016 (I. 5.) of the Ministry for National Economy on the official technical and safety supervision of pressure-holding and filling facilities and light-duty compressed gas filling equipment and the periodic safety inspections of LPG tanks, at the same time, Decree No 63/2004 (IV. 27.) of the Minister of Economics and Transport on the official technical and safety supervision of pressure-holding and filling facilities, Decree No 26/2006 (V. 5.) of the Minister of Economics and Transport on the construction and operation of LPG stations and Decree No 30/2006 (VI. 1.) of the Minister of Economics and Transport on the periodic safety inspections of LPG tanks were repealed.
- Decree No 27/1996 (VIII. 28.) of the Minister of Public Welfare on the reporting and investigation of occupational diseases and cases of increased exposure was amended by Decree No 62/2016 (XII. 29.) of the Ministry for National Economy. This decree clarified to whom the occupational disease, work-related acute or chronic poisoning or exposure caused by chemicals or noise detected by the doctor should be reported, and the report should be sent on what form and with what content.

Decree 62/2016 (XII. 29.) of the Ministry for National Economy allowed in relation to various labour safety decrees for that occupational health notifications in the future may be submitted electronically (in effect: 1 January 2017).

2) KEY DATA, STATISTICS

Labour safety measures taken in the reporting period broken down to the focus and number of measures:

Labour safety measures in 2013:

Name of infringement	2013
Lack of safe elbow-room, handling and maintenance space	**1 526**
Danger of falling in or down	**2 022**
Construction and state of traffic itineraries (including doors and windows)	**1 884**
Security deficiencies related to the electric supply of installations (electricity, natural gas, etc.)	**457**
Electric shock protection of installations	**2 188**
Failure of commissioning under labour safety standards	**450**
Failure to effect the periodic safety inspection	**725**
Failure to carry out the special inspection	**58**
The protective equipment are inoperable or absent	**748**
Lack of risk assessment in dangerous work processes, technological processes or work equipment (I. hazard category)	**623**
Lack of risk assessment in not dangerous work processes, technological processes, work equipment or activities	**1 357**
Wrong or incomplete risk assessment in dangerous work processes, technological processes, work equipment or activities	**837**
Wrong or incomplete risk assessment in not dangerous work processes, technological processes, work equipment or activities	**791**
Lack of vocational qualification (entitlement for handling)	**265**
Lack of labour safety knowledge	**5 084**
In a state that causes unfitness for work (medicaments, drugs, etc.)	**15**
Construction (type error) or execution error in the safety of the work equipment	**550**
Lack or inadequate content of CE marking of the work equipment	**30**
Lack or inadequate content of EC declaration of conformity of the work equipment	**38**
Lack or inadequate content of Hungarian (user) manual, maintenance instructions of the work equipment	**564**
Placement, installation, fitting	**2 649**
Security deficiencies related to operation (protective cover, safety equipment, etc.)	**6 343**
Electric shock protection problems of work equipment (switch box as well)	**4 527**
Deficiencies of electric extension or power cords (fittings, insulation, placement)	**3 027**

Breach of rules on the installation and placement in service of lifting machines	**980**
Breach of operational rules of lifting machines	**7 875**
Failure to perform the preliminary or periodic control or review of non-dangerous work equipment	**814**
Missing or erroneous safety equipment (e.g. process control instruments) of hazardous technological processes	**102**
Deficiencies of technological instructions related to hazardous technological processes	**124**
Breach of technological instructions related to hazardous technological processes (e.g. minimum staff number, aids)	**120**
Breach of rules on the storage, transport, processing and manufacturing of hazardous chemical substances	**545**
Failure to maintain the work equipment related to hazardous technological processes	**130**
Dangers of jobs performed with suppliers	**44**
Protection of persons within the work zone	**189**
Failure to regulate the provisions of personal protective equipment	**1 703**
Failure to provide personal protective equipment	**841**
Failure to use personal protective equipment	**706**
Toleration of not using personal protective equipment	**418**
Dangerous personal protective equipment or construction error of such equipment	**161**
Lack or inadequate content of CE marking of the personal protective equipment	**69**
Lack or inadequate content of EC declaration of conformity of the personal protective equipment	**25**
Lack or inadequate content of user information (manual) of the personal protective equipment	**94**
Failure of acknowledgement or reporting of an accident	**262**
Inadequate investigation of an accident	**2 229**
Breach of requirements related to the investigation of a serious occupational accident	**18**
Classification of the accident by the supervisor	**52**
Lack of labour safety expert(s) prescribed	**227**
Failure to organise the election of labour safety representatives	**63**
Failure to meet the regular control obligation of the employer	**283**
Security deficiencies related to the employment of disabled workers	**3**
Other	**1 293**
Failure to fulfil the responsibility of the main contractor	**195**
Classification as organised employment	**43**
Notification	**280**
Breach of instructions related to noise measurement	**392**
Breach of impositions related to vibration measurement	**12**
Violation of rules concerning noise risk assessment	**614**

Breach of rules on the risk management of vibration affecting the hands/arms or the whole body	**61**
Breach of rules concerning other workplace noise exposure	**586**
Breach of instructions for noise exceeding the threshold	**456**
Breach of employer obligations related to hearing examination, increased exposure or hearing impairment	**104**
Breach of instructions on vibration affecting the hands/arms or the whole body exceeding the threshold	**22**
Breach of employer obligations related to diseases or damage to health (even its suspicion) caused by mechanical vibration	**2**
Breach of rules concerning other mechanical vibration exposure	**12**
Establishment, occupation and operation of pressurised workplaces, breach of ventilation rules	**1**
Breach of general instructions on the temperature of rooms and work spaces and workplace air conditioning	**109**
Breach of instructions related to work organisation	**152**
Breach of rules on work performed at hot or cold work environments (including hot or cold drinks)	**109**
Breach of ventilation rules of closed work spaces	**85**
Breach of illumination rules of rooms	**102**
Breach of instructions related to non-ionising radiation	**8**
Breach of rules concerning the estimation and assessment of risks arising from the application of hazardous substances	**1 460**
Lack of register of safety data sheet(s) and hazardous materials	**2 270**
Breach of rules of registering data on the exposure of employees at the workplace	**54**
Failure to measure air pollution and/or lack of documentation of the time of measurement and the extent of measured air pollution	**245**
Employment in exposure exceeding the threshold	**42**
Breach of rules on the handling of risks of hazardous substances (including the information and training of employees)	**2 419**
Breach of rules on special preventive and protective measures	**96**
Failure to meet the specific instructions of healthcare checks and medical examinations	**35**
Failure to meet the notification obligation	**161**
Failure to perform risk assessment and assessment of asbestos concentration measurements	**230**
Employment of pregnant women or minors in carcinogenic exposure	**4**
Breach of instructions concerning prevention and exposure reduction	**460**
Breach of rules on the alert and action plans for emergency situations	**28**
Employment in exposure exceeding the threshold	**21**
Failure to meet the obligations to keep a register of employees	**202**

Failure to create a work plan or lack of prescribed chapters (only for asbestos)	**29**
Failure to keep a register provided for in the medical documentation	**57**
Breach of other rules concerning prevention	**173**
Lack of a list of notifications and/or information of the occupational safety and health authority and/or employees at risk	**523**
Breach of rules concerning vaccination	**264**
Breach of specific rules on certain medical and veterinary services	**25**
Breach of specific rules on industrial procedures, laboratories and animal-keeping rooms	**78**
Breach of other rules concerning biological agents	**893**
Breach of requirements for ergonomics	**154**
Breach of rules on working at a computer	**46**
Breach of rules on manual handling	**92**
Breach of rules concerning measurements to be performed within the framework of risk assessment	**47**
Breach of the minimum occupational health requirements on the use of personal protective equipment by the employees at the workplace	**3 193**
Incorrectly selected protective equipment providing inappropriate protection level	**118**
Breach of rules on hygienic instructions at the workplace	**531**
Breach of rules related to providing social relax rooms	**557**
Breach of rules on the method and hygienic requirements of water supply	**100**
Breach of reporting rules related to the occupational health service	**30**
Deficiencies in classification in an occupational health category	**16**
Breach of rules related to the performance of labour safety duties of the occupational health service	**1 825**
Breach of other instructions related to occupational healthcare	**280**
Breach of instructions concerning aptitude examinations	**3 466**
Lack of a health declaration at employment in a priority position due to epidemiological interests	**62**
Breach of specific rules on the employability and determination of aptitude of vulnerable groups	**131**
Breach of instructions related to the performance of periodic and/or extraordinary and/or final examinations	**779**
Action due to employment under illegal circumstances (e.g. minors or pregnant women)	**19**
Failure to perform the preliminary aptitude examination	**880**
Breach of instructions related to periodic and/or extraordinary and/or final examinations	**272**
Breach of rules of organisation of first aid and the establishment, equipment and marking of first aid rooms	**4 554**
Breach of rules on working outdoors	**52**
Breach of rules related to the work environment of disabled workers	**5**

Breach of rules concerning the protection of non-smokers	**10**
Failure to report an occupational disease and/or increased exposure case	**3**
Breach of procedural instructions related to the investigation of an occupational disease and/or increased exposure	**22**
Breach of other instructions not included in the above related to occupational disease or increased exposure cases	**17**
Breach of other (occupational health) instructions related to the protection of health of workers	**339**
All labour safety measures	**86 842**

In 2014, the coding of labour safety measures changed partly therefore, the measures are registered in part according to the new classification (this is why the tables cannot be merged).

Name of infringement	2014	2015	2016
Lack of safe elbow-room, handling and maintenance space	998	787	903
Danger of falling in or down	2 256	2 078	2 606
Construction and state of traffic itineraries (including doors and windows)	960	914	1 031
Security deficiencies related to the electric supply of installations (electricity, natural gas, etc.)	783	756	872
Electric shock protection of installations	3 245	2 748	3 373
Failure of commissioning under labour safety standards	460	459	445
Failure to effect the periodic safety inspection	602	604	670
Failure to carry out the special inspection	60	86	106
The protective equipment are inoperable or absent	555	661	685
Lack of risk assessment in dangerous work processes, technological processes or work equipment (I. hazard category)	701	641	734
Lack of risk assessment in not dangerous work processes, technological processes, work equipment or activities	1 539	1 438	1 761
Wrong or incomplete risk assessment in dangerous work processes, technological processes, work equipment or activities	810	661	755
Wrong or incomplete risk assessment in not dangerous work processes, technological processes, work equipment or activities	851	574	594
Lack of vocational qualification (entitlement for handling)	446	343	405
Lack of labour safety knowledge	6 020	4 254	4 321
In a state that causes unfitness for work (medicaments, drugs, etc.)	23	9	16
Construction (type error) or execution error in the safety of the work equipment	538	466	501
Lack or inadequate content of CE marking of the work equipment	7	18	28
Lack or inadequate content of EC declaration of conformity of the work equipment	22	34	54

Lack or inadequate content of Hungarian (user) manual, maintenance instructions of the work equipment	392	388	373
Placement, installation, fitting	2 041	1 887	2 209
Security deficiencies related to operation (protective cover, safety equipment, etc.)	2 261	2 427	2 662
Electric shock protection problems of work equipment (switch box as well)	854	759	897
Deficiencies of electric extension or power cords (fittings, insulation, placement)	2 695	2 198	2 184
Breach of rules on the installation and placement in service of lifting machines	804	483	498
Breach of operational rules of lifting machines	2 460	1 605	1 765
Failure to perform the preliminary or periodic control or review of non-dangerous work equipment	1 228	1 125	1 764
Missing or erroneous safety equipment (e.g. process control instruments) of hazardous technological processes	25	31	41
Deficiencies of technological instructions related to hazardous technological processes	208	160	170
Breach of technological instructions related to hazardous technological processes (e.g. minimum staff number, aids)	79	95	89
Breach of rules on the storage, transport, processing and manufacturing of hazardous chemical substances	1 091	1 192	1 324
Failure to maintain the work equipment related to hazardous technological processes	76	93	83
Dangers of jobs performed with suppliers	77	34	30
Protection of persons within the work zone	156	158	142
Failure to regulate the provisions of personal protective equipment	3 140	2 771	2 943
Failure to provide personal protective equipment	583	474	521
Failure to use personal protective equipment	1 589	922	998
Toleration of not using personal protective equipment	290	189	182
Dangerous personal protective equipment or construction error of such equipment	168	154	157
Lack or inadequate content of CE marking of the personal protective equipment	73	37	43
Lack or inadequate content of EC declaration of conformity of the personal protective equipment	73	56	30
Lack or inadequate content of user information (manual) of the personal protective equipment	101	91	69
Failure of acknowledgement or reporting of an accident	337	266	387
Inadequate investigation of an accident	690	492	565
Breach of requirements related to the investigation of a serious occupational accident	18	14	12
Classification of the accident by the supervisor	57	55	63
Lack of labour safety expert(s) prescribed	266	232	288
Failure to organise the election of labour safety representatives	56	39	102
Failure to meet the regular control obligation of the	167	155	185

employer			
Failure to fulfil the responsibility of the main contractor	173	91	113
Classification as organised employment	60	40	50
Notification	256	138	135
Deficiencies of storage rooms (closed, open-air, storage racks as well)	878	825	1 100
Danger of collapse or falling, lack of protection against burying	194	134	111
Lack of security and occupational health signs and their condition	907	1 014	1 158
Inappropriate condition of the installation or work site	369	361	447
Danger of tripping, falling or slipping	6 098	1 873	1 688
Failure to meet the obligation of harmonisation (except construction)	63	38	39
Failure to carry out extraordinary risk assessment	55	62	55
Work performed contrary to instructions (misconduct of employee also)	65	48	82
Lack of designation, commissioning or instruction	99	80	112
Lack of labour safety syllabus or deficiencies in its content	1 446	1 207	1 309
Work equipment in inappropriate condition, lack of maintenance	2 578	2 717	3 376
Lack of warning and function signs	1 902	1 859	2 246
Failure to perform the periodic examination of lifting machines and tools	554	331	460
Lack or inadequate content of documentation on lifting machines	1 176	707	898
Breach of rules concerning transport, loading and handling	274	243	324
Protective equipment providing inadequate protection level (damaged, end-of-life, polluted, expired, etc.)	680	521	675
Occupational accident protocol filled in incompletely or inadequately	1 000	1 565	1 176
Breach of rules related to the performance of labour safety duties of specialised occupational safety activities	125	91	91
Violation of rules concerning noise risk assessment	368	348	267
Breach of rules on the risk management of vibration affecting the hands/arms or the whole body	59	40	22
Breach of rules concerning other workplace noise exposure	351	315	235
Breach of rules concerning other mechanical vibration exposure	39	16	9
Measures related to work performed in pressurised atmosphere	0	1	3
Breach of rules related to the personal conditions of pressurised workplaces	0	1	0

Breach of general instructions on the temperature of rooms and work spaces and workplace air conditioning	82	79	83
Breach of instructions related to work organisation	56	55	28
Breach of rules on work performed at hot or cold work environments (including hot or cold drinks)	96	176	102
Breach of ventilation rules of closed work spaces	44	50	41
Breach of illumination rules of rooms	103	87	123
Breach of rules concerning the estimation and assessment of risks arising from the application of hazardous substances	4 081	4 197	4 656
Breach of rules of registering data on the exposure of employees at the workplace	107	170	149
Failure to measure air pollution and/or lack of documentation of the time of measurement and the extent of measured air pollution	213	151	150
Breach of rules on special preventive and protective measures	360	457	396
Lack of a list of notifications and/or information of the occupational safety and health authority and/or employees at risk	217	297	65
Breach of rules concerning vaccination	125	159	33
Breach of specific rules on certain medical and veterinary services	18	29	4
Breach of specific rules on industrial procedures, laboratories and animal-keeping rooms	20	71	24
Breach of requirements for ergonomics	108	82	76
Breach of rules on working at a computer	122	50	54
Breach of rules on manual handling	133	105	95
Breach of rules on hygienic instructions at the workplace	290	240	255
Breach of rules related to providing social relax rooms	563	486	458
Breach of rules on the method and hygienic requirements of water supply	44	87	50
Breach of rules related to the performance of labour safety duties of the occupational health service	1 508	1 268	1 465
Breach of instructions concerning aptitude examinations	2 948	2 478	2 595
Breach of specific rules on the employability and determination of aptitude of vulnerable groups	154	113	104
Breach of rules of organisation of first aid and the establishment, equipment and marking of first aid rooms	3 232	2 570	2 820
Breach of rules related to the work environment of disabled workers	34	13	19
Failure to report an occupational disease and/or increased exposure case	5	7	7
Breach of procedural instructions related to the investigation of an occupational disease and/or increased exposure	8	8	4

Breach of rules concerning (total, respirable) powders	1 763	1 908	407
Failure to meet the notification obligation related to activities with carcinogenic materials	140	85	81
Failure to keep the rules related to the estimation, measurement, assessment and handling of risks arising from the application of carcinogenic materials (including asbestos)	534	266	296
Failure to meet the obligation of keeping a register of employees working with carcinogenic materials (including asbestos)	168	124	89
Failure to meet the notification obligation related to asbestos demolition	14	14	11
Failure to create an asbestos demolition work plan or lack of prescribed chapters	16	18	14
Failure to perform risk assessment and preventive measures concerning biological agents	514	659	240
Lack or inadequate content of risk assessment on activities performed with sharp work equipment	395	13	12
Breach of rules related to the risk management of activities performed with sharp work equipment	268	25	26
Failure to meet the notification obligation related to the use of sharp work equipment	371	9	8
Lack of risk assessment and management related to psycho-social agents	98	58	63
Lack of occupational healthcare service	148	131	123
Lack of examination of the health damaging effect of working conditions and work documented in writing	184	245	275
Lack of valid preliminary job aptitude opinion	803	693	792
Lack of valid periodic job aptitude opinion	795	679	925
Failure to carry out a special examination	61	35	39
Failure to perform biological monitoring	133	70	77
Lack of qualified first aid personnel	621	531	699
Lack or inadequate content of regulation of first aid	95	64	54
Breach of other instructions related to the security and occupational health of workers	631	459	549
Lack of prevention strategy	93	94	62
Breach of rules related to secure work and its inspection and toleration thereof	This code didn't exist	This code didn't exist	34
Breach of obligations related to occupational accidents	This code didn't exist	This code didn't exist	6
Total number of measures	**85 216**	**70 444**	**75 555**

3) ANSWERS TO THE QUESTIONS OF THE ECSR CONCERNING THIS PARAGRAPH

- **The ECSR requests information on ensuring employees the right to participate in the establishment and improvement of working conditions, work organisation and work environment, as well as the available legal remedies and compensation in case of breach of this right.**

To ensure occupational safety and health at the workplace, the rights and obligations of the state, the employer and the employee are regulated in the Labour Safety Act. In order to ensure a healthy work environment, Hungary performs the transposition of the European Union Directives into Hungarian legislation continuously, and provides for compliance with the legal provisions with state officials (see amendments of legislation and “key data, statistics”).

It is usually typical of labour safety provisions that they define the work environment to be realised (e.g. atmospheric pollution thresholds, tolerable risk, etc.), but the employer is relatively free to decide how to reach this goal (it has to follow a few basic principles, e.g. it has to prefer collective protection over individual protection). The authority examines whether the employer actually ensures occupational safety and health at the workplace with its actions, and whether it takes measures to improve the situation.

Pursuant to the Labour Safety Act, the employer must consult workers and/or their representatives to ensure occupational safety and health at the workplace, and allow them to take part in discussions in advance and in good time on all questions relating to the employer’s actions concerning safety and health at work. Workers are entitled to be consulted directly or through their representatives with regard to the obligations of the employer related to labour safety.

Protection of health and safety

The fulfilment of the provisions of the Labour Safety Act are checked by occupational safety and health inspectors (state officials), and if they find that, pursuant to Section 70/A of the Labour Safety Act, labour safety representative elections were not organised at an employer having at least 20 workers employed (prior to 8 July 2016, at an employer having at least 50 workers employed), they take measures to terminate the infringement.
In the reporting period, the number of measures taken due to the absence of elections of labour safety representatives is shown in the table containing labour safety measures (see “key data, statistics”).

Organisation of social and socio-cultural services and installations

For employees, ensuring socio-cultural services (e.g. library, children’s vacation, possibility to do sports, etc.) is not mandatory, therefore, the examination thereof does not fall under the competence of the occupational safety and health authority.

Implementation

The occupational safety and health authority continuously monitors the fulfilment of labour safety instructions, the number of checks can be found under point 2.

ARTICLE 10 - THE RIGHT TO VOCATIONAL TRAINING

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

5. to encourage the full utilisation of the facilities provided by appropriate measures such as:
a) reducing or abolishing any fees or charges;
b) granting financial assistance in appropriate cases;
c) including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
d) ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

- **The ECSR has concluded that the situation in Hungary is not in conformity with Article 10§5 of the Charter on the ground that it has not been established that equal treatment of nationals of other States Parties lawfully resident in Hungary is guaranteed as regards financial assistance for vocational education and training.**

Regulatory background to vocational education

For the education of persons who are citizens of other State Parties and are legally residing in Hungary, it is primarily the provisions of Act CXC of 2011 on public education (hereinafter referred to as Education Act) that are applicable. Such provisions, which fall under the regulatory competence of the Ministry of Human Capacities shall be applied in vocational education centres established and maintained by the Minister for vocational education and training. The underlying statement is that, in certain cases specified by Education, persons who are citizens of other State Parties and are legally residing in Hungary, may take part in vocational education under the same conditions as Hungarian citizens. Pursuant to the principles in Act CLXXXVII of 2011 on Vocational Training (hereinafter referred to as Vocational Training Act), the requirement of equal treatment shall be met throughout the entire process of vocational education. Any organisation, under the scope of Vocational Training Act that violates this requirement may be banned from any involvement in vocational education, according to the rules in Vocational Training Act.

Regulatory background for adult education

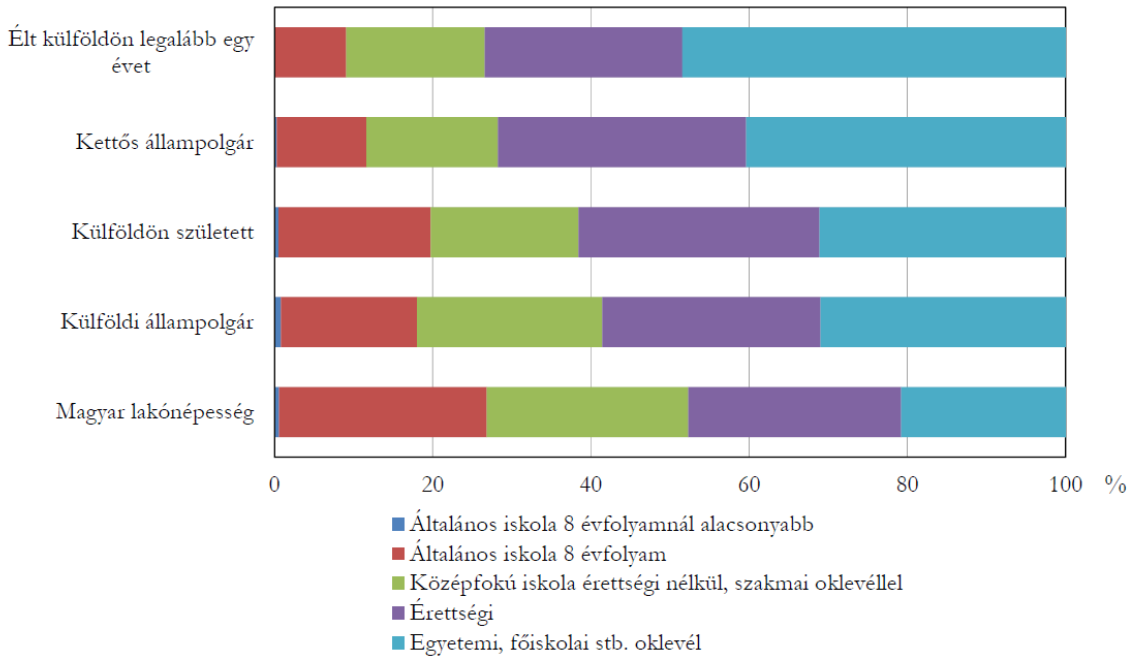
Section 23(3) of Act LXXVII of 2013 on adult education explicitly contains provisions for the training of persons who are citizens of other State Parties and are legally residing in Hungary. Such training shall be provided at the costs of the central budgetary system and under the vocational training levy scheme. Accordingly, in the framework of the Basic training section of the National Employment Fund (hereinafter referred to as NFA KA), the effective legislation enables the support of training, in adult education, of persons who have the right of free movement and residence but are not Hungarian or are citizens of a third country. The group of beneficiaries also includes refugees, persons under protection or persons with an asylum-seeker's status. To this end, NFA KA may grant support to these natural persons or employees and the training institutions too.

Act IV of 1991 on job assistance and unemployment benefits (hereinafter referred to as Employment Act), in Section 2(2), as a main rule, stipulates that persons who are refugees, are under protection or who are asylum-seekers, and those who are immigrants or have settled down, as well as those who have the right of free movement and residence are entitled to and bound by the same rights and commitments as Hungarian residents as regards the rights and commitments set forth in the Employment Act and in its implementing rules. This means that, even concerning our own professional field, such persons enjoy the statutory warranty to be entitled to job assistance training just like their Hungarian citizen counterparts.

Information related to the qualifications of foreign citizens as well as their position in the labour market and their participation in training

In this context, notwithstanding, it is apparent that foreigners generally tend to have higher qualifications as local inhabitants. Almost one-third of foreign inhabitants or those who are over 24 and were born abroad have higher education qualifications, whereas such level of education may be attributed to more than 40 percent of persons with double citizenship. And merely half of those returning home have graduated from college or university. (Table 1) It may also be taken as a tendency that the farther foreigners come from, the higher school qualifications they have. Thus, on average, it is the Europeans who perform the poorest as regards qualifications. In the context of the ratio between school qualifications and persons with higher active age, migrants seem to have a higher employment rate than the Hungarian inhabitants. According to the data from the census in 2011, 64.4% of the inhabitants aged 25-64 were employed. Nonetheless, among foreigners this figure was as high as almost 70%. [3]

A migrációban részt vevő csoportok (25 évesek és idősebbek) iskolai végzettségek szerint, 2011



[3] Dr. Áron Kincses (2015): A nemzetközi migráció Magyarországon és a Kárpát-medence magyar migrációs hálózatai a 21. század elején, KSH, Budapest

Source: *Dr. Áron Kincses (2015): A nemzetközi migráció Magyarországon és a Kárpát-medence magyar migrációs hálózatai a 21. század elején, KSH, Budapest, page 16*

Irrespective of this, and taking advantage of the legislative opportunities, students with foreign citizenship also enjoy the benefits of the Hungarian vocational training system. As it is shown in Chart 2, Hungary welcomes students from all over the world. Yet, 75% of the students still come from the neighbouring countries (namely Romania, Ukraine, Serbia and Slovakia) and typically attend technical grammar school.

Foreign students studied in Hungary in academic year 2016/2017 broken down by country of origin

Country	Secondary school	Vocational school	Gymnasium	Altogether
Afghanistan	33	2	7	**42**
Albania	4		2	**6**
Algeria			2	**2**
USA	1	2	22	**25**
Argentina	1		3	**4**
Australia			2	**2**
Austria	3		14	**17**
Bangladesh	1		2	**3**
Belgium			1	**1**
Bosnia-Hercegovina			3	**3**
Brazil			2	**2**
Bulgaria			4	**4**
Czech Republic			1	**1**
Ecuador			1	**1**
Egypt			1	**1**
Ethiopia	1		1	**2**
Finland			1	**1**
France			8	**8**
Greece	1	1	2	**4**
Georgia			1	**1**
Netherlands	1		10	**11**
Stateless	1			**1**
Croatia	1		8	**9**
India			1	**1**
Indonesia			1	**1**
Iraq	11		3	**14**
Ireland	1			**1**
Israel			1	**1**
Cambodia			1	**1**
Canada			6	**6**
China	7		76	**83**
Columbia			1	**1**
South-Korea			2	**2**
Poland	1		3	**4**
Lithuania			2	**2**
Macedonia			1	**1**
Macao	1			**1**

Country	Secondary school	Vocational school	Gymnasium	Altogether
Mauritius			1	**1**
Mexico			1	**1**
Moldova			1	**1**
Mongolia	4		14	**18**
Great-Britain			4	**4**
Germany	4		33	**37**
Norway			2	**2**
Italy	2		14	**16**
Russia	3		10	**13**
Armenia			3	**3**
Pakistan	3		2	**5**
Palestine			1	**1**
Romania	137	8	360	**505**
Spain			1	**1**
Switzerland	1		2	**3**
Sweden			3	**3**
Serbia	43	3	196	**242**
Syria		1	7	**8**
Slovakia	39	6	196	**241**
Slovenia			5	**5**
Somalia	3			**3**
Thailand	1			**1**
Turkey	1		10	**11**
Ukraine	109		211	**320**
Venezuela			1	**1**
Vietnam	5		20	**25**
Total	**424**	**23**	**1294**	**1741**

Source: *Public education statistics*

ARTICLE 15 – THE RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;

- **The Committee has concluded that the situation in Hungary is not in conformity with Article 15§1 of the Charter on the ground that it has not been established that the right of persons with disabilities to mainstream education is effectively guaranteed.**

A. Field of public education

Pursuant to Decree no. 15/2013 (II.26.) of the Ministry of Human Capacities on the operation of institutions providing pedagogical services (hereinafter referred to as "EMMI Decree"), the professional diagnostical committee of the county-based (Budapest) institution providing pedagogical services shall draft its expert opinion based on the child's, student's complex psychological, pedagogical – special educational assessment and medical examination respectively. The members of the professional diagnostical committee elaborate the findings related to the admission into special care, the disability of the child/student and the areas in need of development together. The professional diagnostical committee informs the parent, based on the list of institutions composed in accordance with Section 16(3), about the possibilities on the basis of which his child with special educational needs can take part in early development and care, preschool education or developing training and fulfil his compulsory educational requirements. The public education institution is chosen by the parent from among the institutions recommended by the professional diagnostical committee. The professional diagnostical committee shall appoint the institution for the student in its expert opinion. This is a compulsory element thereof. The education of the child/student may only commence in accordance with the expert opinion, if – for minor students – the parent or – for adult students – the student agrees with the expert opinion. If the parent or the student does not agree with it, the professional diagnostical committee shall inform the competent district office based on the child's domicile or, in failure of this, based on the place of residence, of this fact. The parent or – for adult students – the student may initiate a procedure directly with the district office competent where the child's domicile or, in default of this, place of residence is for a review of the expert opinion.

The expert opinion of the committee must be reviewed ex officio during the first educational year or the academic year following the start of its implementation. The person who was involved in the drafting of the expert opinion may not take part in the first review conducted ex officio.

If the child or pupil has mild intellectual disabilities or other psychological developmental disturbance, the expert opinion must, following the first ex officio review, be reviewed ex officio in every second academic year until the academic year in which the pupil reaches the age of ten. In the case of autism spectrum disorder or if the pupil has any other disability, it shall be reviewed in every three years thereafter, until the academic year in which the pupil reaches the age of sixteen. The parent may request the review any time.

As of 2013, the entire task management scheme of special pedagogical service provision has been restructured under the decree. Prior to its coming into force, the distribution of the tasks was geographically uneven and technically uncontrolled. It could be characterised by a rather scattered implementation map with a mixed institutional structure. Consequently children and parents affected by such services might have been forced to make use of the services far from their place of living. The restructuring, however, resulted in the establishment of an institution providing special pedagogical services in every county. This guaranteed service provision by county. In addition, every district got a member institution of the former, which was not typical beforehand. As a requirement, the institution in each county consists of a head institution and district member institutions, which are supplemented by county member institutions in certain counties and Budapest (also county and nationwide member institutions in Budapest). Special service tasks that so far have been fulfilled by mixed-profile institutions got to be transferred to these county-level institutions. The underlying goal of the concept was a most comprehensive task performance, with the establishment of profile-clear institutions and single management. This, in addition, was to be supported by common procedural rules and professional protocols, along with the use of a single monitoring IT system. The decree specified, for every country and special service, the minimum workforce that was needed for the specific tasks. This itself did not only mean a step forward as compared to the previous years, but allowed for status extension at the same time.

In the context of the decree, county-level tasks among special service activities comprise the following:

- a part of the expert committee activity and
- further study and career counselling

which are attended by the head institutions or, in the case of larger counties, the head institution and the member institution(s) with county-level competence jointly.

District-level tasks:

- special educational consulting, early development, education and care
- educational consulting,
- logopedic attendance,
- conductive educational attendance,
- adapted physical education,
- school psychology and nursery psychology service,
- attendance of particularly talented children and pupils, and
- expert committee activity at the level of the school district,

which are carried out by district-level member institutions in all counties.

Thus the special pedagogical services, de jure, received nation-wide coverage, making them accessible close to the residences of those concerned. Owing to the measures of the past period, special service activities are carried out on over 300 sites.

A Unified Special Educational Methodology Institute (hereinafter EGYMI/USEMI) may be established for assisting the education of children / students with special educational needs together with other children / students. Within the framework of the institution there shall be an institutional unit that performs exclusively pre-school, primary school activities or other school or secondary school activities providing developmental education for children or students with special education needs, as well as a mobile network of special educators and conductors. USEMI may also fulfil the tasks of family support and school healthcare, as well as the lending of special education and conductive education tools and aids, and it may operate a hall of residence. Within USEMI, separate institutional units shall be created for each function, with the exception of family support services and school healthcare services and the lending of special education and conductive education tools and aids. Such units shall be organisationally and professionally independent.

Mobile special educator

Mobile special educator, mobile conductor is a special educator or conductor employed by the respective mobile network of special educators or conductors, who perform their duties, specified in this Act, regularly outside the location of their employer.

The duty of the mobile network of special educators and conductors shall be to provide experts with appropriate professional qualification as required for the education of children / students with special education needs, for educational institutions performing the pre-school or school education of children / students with special education needs, partly or fully together with peers and students in the same pre-school group or school class, if the educational institution does not dispose of an expert having special educator or conductor qualification to be employed as defined in Section 47 of Act CXC of 2011 on National Public Education (hereinafter Nkt.). The mobile network of special educators and conductors shall operate, from an organisational and technical perspective, as an independent institutional unit of the uniform special educational and conductive education methodological institution.

B. The technical field of vocational training, adult education and employment

The regulatory background and statistics to vocational training

Pursuant to Section 13/A of Nkt., in the context of the school-based education of students with special educational needs, the vocational school shall prepare students who need differentiated progress due to their special educational needs, for technical examinations together with other students. In vocational schools vocational education and training may be performed in accordance with the vocational general curriculum or special general curriculum for the vocational qualifications listed in the National Register of Vocational Qualifications. In order to enforce the principle of equal opportunities with regard to qualifications, Act CLXXXVII of 2011 on vocational education (hereinafter referred to as Szt.) lays down those special rules that, in accordance with the former regulation on vocational training, still ensure that examinees with special educational needs are given more time to complete the test. With due regard to their special conditions (e.g. disabilities) they may be allowed to take a different form of the exam (e.g. spoken exam instead of a written one or vice versa) or use other tools during the examination. It shall also be noted that the application of such rules may only assist the examinee in the taking of the examination. The examination requirements and tasks must, in all cases, be met and completed, with the exception of those laid down in the law.

In academic year 2016/2017 the proportion of students with special education needs rose by 0.2 percentage points, to 5.1% as compared to the previous academic year.[4] In full-time vocational education, the proportion of SSEN receiving integrated education is as follows: 8.8% in technical secondary schools, 3.1% in technical grammar schools, and 4.8% in vocational training altogether.

[4] Central Statistical Office 2017: educational data, 2016/2017, Statistical Journal

Number of students in academic year 2016/2017 with special regard to students with special educational needs

	Vocational secondary school			Vocational school			Grammar school			Altogether		
	All students	out of total		All students	out of total		All students	out of total		All students	out of total	
		integrated	educated in separate group or class		integrated	educated in separate group or class		integrated	educated in separate group or class		integrated	educated in separate group or class
		student with special educational needs			student with special educational needs			student with special educational needs			student with special educational needs	
full-time and adult education together	105,742	7,101	98	5,769	0	5,769	205,062	5,398	64	316,573	12,499	5,931
full-time education	78,231	6,884	98	5,768	0	5,769	167,574	5,261	64	251,573	12,145	5,930

Source: Public education statistics

Regulatory background and statistics to adult education

The regulatory system for adult education also takes into account the special needs of those suffering from disabilities, since the legal regulation contains provisions for their involvement and participation in training. In accordance with the government decree that governs the permission procedures for adult education laid down in Government Decree no. 393/2013 (XI. 12.) on the rules of procedures and requirements of giving permission to institutions launching trainings, of the register of these institutions and of their control, the provisions of the training programme allow disabled adults to also join the training. When it comes to disabled adult participants, the relevant institution shall provide for the technical resources based on the individual condition of the disabled adult participant. The list of such resources, which have to be adjusted to the type of disability, is specified in the government decree. Act LXVII of 2013 on adult education (hereinafter referred to as Fktv.) specifically enables the provision of financial support to disabled adults so that they can participate in training courses.

Act CXCI of 2011 on the benefits for persons with changed working capacity and on the amendment of certain acts (hereinafter referred to as Mmtv.), in Section 4, lays down that any person whose changed working capacity may be restored through rehabilitation is eligible for rehabilitative care. As per Section 6(2) and (3) of Mmtv., any person who receives rehabilitative care is obliged to cooperate with the rehabilitation authority, wherein he/she is required to accept, inter alia, subsidized training opportunities. Section 14 (1)(d) of Act IV of 1991 on job assistance and unemployment benefits contains specific provisions on the supportability of job assistance training for those receiving rehabilitative care.

The number of people, with changed working capacity, who took part in labour market training in 2017, is shown in chart 4. From this it can be deduced that, from January until May 2017, people with reduced working capacity constantly accounted for 23-25% of all the participants in job assistance training.

Programmes, initiatives

There are a number of initiatives to control school leaving without qualification among students with special educational needs. The former also foster career counselling for youngsters with disabilities, and the provision of labour market-related training and services for those with changed working capacity. They may as well contribute to a more intense access, of youngsters and adults with disabilities, to the opportunities offered in vocational training and adult education.

Lower number of school leaving without qualification among students with special educational needs

Based on the Commission paper of 2010 for a controlled number of early school leaving, it has been established that students with special educational needs are more likely to leave the educational system than their counterparts on average. Preventing and hindering dropout and school leaving without a qualification, and making improvements in this field requires teachers, institutes and institutional managements that are professionally and methodologically better prepared than the

average, that are more inclusive, more open and more flexible. These pedagogical experts and leaders need prepared, committed, professionally acknowledged specialists who have the capacity to act for their technical assistance. In the programming period of 2014-2020, two projects promote the control of early school leaving and dropout in vocational education in Hungary. The projects that feed into each other (namely GINOP-6.2.2-VEKOP-15 and GINOP 6.2.3-17 – VEKOP 8.6.3-16) contribute to the cause with a budgetary amount of HUF 22.04 billion, where preludes are not only taken as a basis but are under consideration. Accordingly, one of the principles of project implementation is built around the development of some pedagogical practice that is customized, people-oriented and ready to treat individual development systematically, inasmuch as around the operation of a technical support scheme for its maintenance. The 44 vocational training centres that have been established and maintained by the Ministry of Economic Development (hereinafter referred to as NGM) and that are involved in the project, just like the vocational training institutions under the maintenance of the Ministry of Agriculture shall draw up a local action plan to control early school leaving without qualification. In this they shall also react, besides the expectations and principles laid down by the National Institute of Vocational and Adult Education (hereinafter referred to as NSZFH), to the policy-related messages contained in the document “Whole School Approach to Tackle Early School Leaving” issued by a specialist working group (Education and Training 2020), which was created by the European Commission to address the subject matter. Through this, as a matter of fact, the cause of early school leaving and school leaving as a compensation of disadvantages and the mitigation thereof will result in a number of other methodological and qualitative innovations that make vocational training even more inclusive and accessible to students with special educational needs.

Besides the above, in the framework of the priority project (GINOP 6.2.4-VEKOP 16) which is to be implemented in consortial cooperation with NGM and NSZFH, and which is built on a budgetary amount of HUF 13 billion to promote the participation of students with special educational needs in dual vocational training, a relevant professional and methodological background shall be developed in the programming period 2014-2020. This will see the engagement of developer pedagogical experts, special educational experts and psychologists skilled in the field, so that ultimately a network of mentorship centres may be established on the hub of vocational training centres.

In addition, partially building on domestic and EU resources, a new initiative shall also be launched as of academic year 2017/2018 under the title “Tuned to the family”[5] (Családra hangolva). Its underlying concept is that youngsters with mild intellectual disabilities in the preparatory years at vocational schools, and students with healthy intellectual abilities in year 9 at secondary schools or those participating in integrated education should be prepared for family life, partnership and sexuality. In fact, related to this, pedagogical experts shall also receive individual preparatory training. The number of youngsters dropping out of school serves as an indicative factor for the development of the programme, where the students' lack of knowledge due to their disadvantaged situation or the shortage of impulse may lead to early and unexpected pregnancy. The regular data-recording carried out by the University of

[5] National Employment Fund, Basic section for training, and GINOP 6.2.3-17 – VEKOP 8.6.3-16

Maastricht shows that pregnancy accounts for 2% of early school leaving. Depending on the experiences so far and based on the available resources, the programme may as well be extended to vocational grammar schools.

The establishment of a Special Development Centre for Job Assistance in the Labour Market (Vác) to foster career counselling in support of students with special educational needs and youngsters with disabilities

Pursuant to Government Decision no. 1290/2016 on certain measures for the establishment of a Special Development Centre for Job Assistance in the Labour Market (Vác) (VI. 13.), the former building of the Franciscian Order shall give home to a career-orientation centre and working capacity assessment station after its reconstruction, which will not only provide multifunctional development services, but serve as a scientific research and methodology development centre too. The Centre shall operate under the Hungarian Constituency of the Piarist Order. The development centre is envisaged to start its operation in January 2019, subsequent to the renovation works and the laying down of its full-scope professional foundation. The establishment of the development centre and the development of its professional methodology shall be financed by the Hungarian State, with the Hungarian Constituency of the Piarist Order taking the role of the project leader.

With a view to facilitate conscious career choices, orientation and employment, the project is partly aimed at better self- and career awareness and the improvement of the various career management skills, inasmuch as at the development of related career-diagnostical tools and a toolkit for career counselling, along with the creation of a so-called knowledge-base and the management of various training courses for better prepared specialists. And all this shall be accomplished through cutting-edge services. One of the most outstanding elements of the development is to inform the users and future clients about the contents of the various career counselling services and the alternatives for their use, in the meantime relying on the features of the various target groups comprising students with special educational needs (that is students with sight impairment, physical disabilities, hearing impairment, mental handicap, psychiatric development disorders and activity disorders), the various age groups (primary and secondary school students, young NEET adults) and the needs thereof.

Project indicators are as follows:

Target group	Centrally proposed target number (persons)
Students with disabilities or special educational needs in year 7-8 in primary schools	200
Students in vocational schools	150
Students suffering disabilities, with integrated education in secondary schools	30
Youngsters suffering from disabilities, who are under 25 and do not belong to any other target group	120

The promotion of labour market training and services for those with changed working capacity

The labour market training of persons with changed working capacity shall be typically implemented via two programmes in 2017.

Concerning construction GINOP 6.1.1-15 “Training of low-skilled people and public employees”, the aim is to encourage the adult population – especially public employees – with low qualifications, or with no competences or special skills required on the labour market, to participate in education and training; and to make it possible for them to acquire qualifications, knowledge, skills and competences that are relevant from the aspect of the labour market. The programme targeted at about 85 000 people has been allocated a budgetary amount of HUF 30 billion. The project caters for a lead-out from public employment through supportive, tailor-made activities adjusted to the training. Thus individual training plans and mentoring services are available.

The priority project “To the labour market” (GINOP 5.1.1-15, VEKOP 8.1.1-15) is, on the one hand, aimed at better employability among job-seekers and inactive people, particularly among those with lower school qualifications and focuses on their employment in the open labour market. On the other hand, the promotion of a transition from public employment to the private sector is in the fore-front for those in public employment who have the capability and are ready to take a job in the private sector. The labour market program concentrates on those registered job-seekers (aged 25-64), service claimants and intermediation claimants, and on those publicly employed people ready to be moved to the private sector, whose employment, in the judgement of the public employment body, may be fostered by the current labour market programme. The programme design also takes account of inactive people (who were generally not registered, in any way, with the public employment body at the time of reference/application). The employment department of each district authority shall draw up an individual programme plan for each participant, in cooperation with the interested party. They shall jointly make their tailor-made choice of the programme elements and decide the order thereof. Programme elements, inter alia, include job assistance training and the support of various labour market services.

The projects (TOP 5.1.1-15, TOP 5.1.2-15, TOP 6.8.2-15) announced in the framework of the “Operational programme for regional and municipality development” (TOP), which is still to be implemented, serve the purpose of employment and economic development programmes. The aim of such programmes is to join the State, the local government, the companies, the representatives of the civil sector and those who are the most aware of the local and regional situation of the economic circulation in their efforts to revive the economy and the labour market with the coordination of strategic objectives and endeavours. The financial resources available for TOP programmes until 2020 are at the order of HUF 100 billion altogether. The group of people who may be involved in the labour market activities as per the programme comprises those who intend to work in the region, job-seekers in a disadvantaged situation, and those who are publicly employed or inactive. People with changed working capacity constitute a special target group in this scope. Training support may as well be applied for as a job assistance benefit in the programme. It is a prerequisite for subsidized trainings that they rely on the demand based on the pact and are included in the training list of the county-based government office that acts as the competent public employment body.

According to the provision in points 12-15 of Government Decision no. 1139/2017 (III. 20.) on certain labour market measures, year 2017 will still see the continuation of the special public employment programme specified in point 2 of Government Decision no. 1253/2016 (VI. 6.) on the government measures of 2016 to promote the employability of those job-seekers who may not be involved in employment for mental, social or health reasons. The project, with a budgetary amount of HUF 180 million, shall be implemented in four counties (Baranya, Borsod-Abaúj-Zemplén, Szabolcs-Szatmár-Bereg and Zala), from 1 April 2017 until 31 August 2017, in a 5-month period, with the involvement of 280 people altogether. Job-seekers who may not get employed for mental, social and health reasons and who make use of this service with a view to enter the primary or secondary labour market and to better their chances, also constitute a target group. Apart from the above, those whose employability rating has decreased by at least 40% may also receive support. The promotion of public employment, just like the customized labour market services in support of an exit to the primary and secondary labour market, as well as the constant mentoring of programme participants also constitutes part of the programme.

For the implementation of point 7 of Government Decision No. 1391/2016. (VII. 21.) on the situation of Tiszabő and Tiszabura, a service pilot programme was launched in Kunhegyes, Tiszabő and Tiszabura (Jász-Nagykun-Szolnok county) in September 2017, for a period of 9 months. The programme is to provide short, mid and long-term assistance to settlements faced with the problem of marginalisation and permanent disadvantages. Such assistance shall be ensured in the form of various customized labour market services (such as mentorship services) under a budgetary limit of HUF 29 million.

C. Field of higher education

Public administration scholarship programme for higher education students with disabilities

The first scholarship programme was organised in 2014. As of 2015, the programme is announced twice every year, adjusted to the semesters in tertiary education.
The number of participants has been as follows:
The primary programme objective is to approximate cooperation with disabled scholarship students even for those persons (mentors) who are widely skilled in public administration, yet have not gained experience in working together with the special target group. As it has been perceived, such officials who initially are in short of the relevant knowledge, welcome this opportunity and the mentor training which gives them special information about the programme.

When it is about to start the scholarship programme, it is extremely important in connection with the special target group that the participating mentors are adequately prepared. The related three-day training, irrespective of the stage of the programme, was carried out by Fogyatékos Személyek Esélyegyenlőségéért Közhasznú Nonprofit Kft. (hereinafter referred to as FSZK), which has extensive experience in the field of disabilities. The course outline was based on the mentor training provided during the earlier phases of the programme. The fundamental goal was to make sure

that mentors are capable of creating an integrated working environment, where disabled scholarship students can gain real-life work experience and mentors can provide them with adequate support both in terms of professional and personal inclusion.

When putting together the training program, FSZK colleagues strived to make sure the future mentors acquire the most comprehensive information about the practice of those with several years' experience, besides the basic theoretical studies of the field. Thus, they could gain thorough knowledge about the various disability types, the methodology of successful liaison and the special needs and the conditions of starting a job. In this way, by the end of the training, they managed to master the basic techniques of how to successfully employ disabled scholarship students. In order to remedy the difficulties faced during the implementation of the Scholarship programme, mentor supervision is organised on a monthly basis, through which mentors are assisted by supervisors in their quest to find relevant answers to the arising questions.

Out of all the students participating in the programme, 17 took part twice, whereas one scholarship student has attended the programme already four times. Basically multiple participation is not hindered. In fact, it is supported on some level (such as double participation). Based on the experiences of the first programme we have come to the conclusion that 3 months is, in most cases, insufficient for scholarship students, since by the time they have got integrated and get familiar with the operational rules and tasks at the department, the programme is practically over. Therefore, multiple participation may as well be encouraged, even at the same organizational unit, if the continuation of the cooperation is justified. Multiple participation of over two times is plausible if the number of disabled higher education students does not enable us to completely fill the range (which is 20 persons). Otherwise students applying for the first or second time will be favoured against those who have applied more than twice.

The previous programme phases have seen 5 instances when scholarship students were further employed in the ministry or organisation unit that was responsible for their apprenticeship period, or with another organisation unit where their work was found necessary. Subsequent to their graduation,
in one or two cases these scholarship students were admitted to Hungarian and Regional Public Administration Scholarship Programmes to take a full-time job during their scholarship period. Consequently, experience acquisition may be considered useful, remarking that a lot fail to finish their university studies parallel to the apprenticeship under FKÖ. Thus, in their case, the possible advantages of the programme through job-seeking are unknown.

For further information about the Hungarian Public Administration Scholarship Programme please visit
http://mko.kormany.hu/index

For further information about the Regional Public Administration Scholarship Programme please visit
http://tko.kormany.hu/

Government Decree no. 87/2015 (IV. 9.) on the implementation of certain provisions of Act CCIV of 2011 was issued and came into force in April 2015. The decree also governs the principles and positive actions related to the studies of students with disabilities.

According to the decree:

“Section 62 (1) Upon the request of students with disabilities, the higher education institute shall set requirements that partially or wholly differ from those of the curriculum. With due regard to Section 49(8) of Nftv., it shall grant the student exemption from the requirements by granting at least one of the allowances listed in paragraphs (2)-(7) to him or her if the expert opinion on the student’s disability warrants a benefit or exemption to the student.

(2) Allowances applicable in the case of physically disabled students:

a) partial or full exemption from the requirements of practice, or allowing for other ways for their fulfilment,

b) the replacement of a written exam with a spoken one, or vice versa,

c) exemption from the obligation to take a language exam or certain parts or levels of the exam,

d) exemption from the delivery of tasks that need manual skills and work, with the provision that respective theoretical knowledge may be tested,

e) allowing for the use of special tools and equipment for written tasks,

f) the provision of longer preparation time as compared to the preparation period established for students without disabilities

g) the appointment of a personal coach for the student's studies.

(3) Allowances applicable in the case of students with hearing impairment (deaf, hard of hearing):

a) partial or full exemption from the requirements of practice, or allowing for other ways for their fulfilment,

b) the replacement of a spoken exam with a written one. In the case of a spoken examination, upon the student's request, the provision of a sign language or oral interpreter,

c) exemption from the obligation to take a language exam or certain parts or levels of the exam,

d) with respect to understandability and understanding, the simultaneous visual presentation of the things said during the lectures or examinations,

e) the provision of tools for visualization on the occasion of each examination,

f) the provision of longer preparation time as compared to the preparation period established for students without disabilities,

g) the appointment of a personal coach, note-taking interpreter or language sign interpreter for the student's studies.

(4) Allowances applicable in the case of students with visual impairment (blind, severely sight impaired, sight impaired):

a) partial or full exemption from the requirements of practice, or allowing for other ways for their fulfilment,

b) the replacement of a written exam with a spoken one, and in the case of a written test, arranging for the use of special technical devices,

c) exemption from the obligation to take a language exam or certain parts or levels of the exam,

d) exemption from the delivery of tasks that need manual and visual skills and work, with the provision that respective theoretical knowledge may be tested,

e) making sure that questions, topics during the lectures, practices and examinations are available on a media device, digitally, in Braille codes or in an enlarged format,

f) the provision of longer preparation time as compared to the preparation period established for students without disabilities,

g) the appointment of a personal coach for the student's studies.

(5) Allowances applicable in the case of students with speech disorders (dysphasia, dyslalia, dysphonia, stuttering, gabble, aphasia, nasality, dysarthria, mutism, severe speech perception and speech comprehension disorder, central lisping, delayed speech development):

a) the replacement of a spoken exam with a written one, allowing for the use of special technical devices throughout the tests,

b) exemption from the obligation to take a language exam or certain parts or levels of the exam,

c) the provision of longer preparation time as compared to the preparation period established for students without disabilities,

d) the appointment of a personal coach for the student's studies.

(6) Allowances applicable in the case of students with mental development disturbances:

a) for students suffering from dyslexia, dysgraphia or dysorthography:

aa) the replacement of a written examination with a spoken one, or vice versa,

ab) the provision of longer preparation time during written examinations as compared to the preparation period established for students without disabilities,

ac) the provision of the necessary tools (especially computers, typewriters, orthography dictionaries, monolingual dictionaries, thesaurus) during the exam,

ad) exemption from the obligation to take a language exam or certain parts or levels of the exam;

b) for students suffering from dyscalculia:

ba) exemption from the delivery of tasks that need counting and calculation, with the provision that respective theoretical knowledge may be tested,

bb) the use of those tools at the exams that the student has already used during his/her studies (especially computers, calculators, configuration, mechanic and manipulative devices), and the allocation of longer preparation time;

c) for students suffering from hyperactivity or attention deficit syndrome:

cc) the replacement of a written examination with a spoken one, or vice versa,

cb) the provision of longer preparation time as compared to the preparation period established for students without disabilities,

cc) the minimalization of student waiting time, may it be any kind of exam,

cd) allowing for the use of special tools and equipment for written tasks,

ce) arranging for long-term examinations to be held in several parts, breaks without leaving the examination room, giving permission for movement-based activities, showing tolerance to emotional expressions and behaviour,

cf) examination separately from other students,

cg) depending on individual needs, the writing down or multiple repetition of questions, the breaking down of complex questions into subparts, assistance with the clarification of expectations and questions – upon the student's request,

ch) making sure that questions, topics during the lectures, practices and examinations are available on a media device, in digital format,

ci) the appointment of a personal coach for the student's studies;

d) for students suffering from behaviour disorders (adjustment disorder, impulse control disorder, aggression towards oneself or others, behavioural traits demonstrating symptoms of anxiety or weak self-control, abnormal development in adjustment, goal-directed behaviour, self-organisation or metacognition):

da) the replacement of a written exam with a spoken one, or vice versa,

db) arranging for long-term examinations to be held in several parts, or the permission of breaks, showing tolerance to the individual's behaviour and emotional expressions,

dc) examination separately from other students,

dd) making sure during the spoken exam that, if the student requests so, questions are written down, or clarified together with the expectations. In addition, the questions asked, just like the instructions, should be simple and clear,

de) the provision of longer preparation time as compared to the preparation period established for students without disabilities,

df) the appointment of a personal coach for the student's studies.

(7) Allowances applicable in the case of students suffering from autism:

a) the adaptation of test circumstances to the student's special needs, the replacement of a spoken exam with a written one and vice versa,

b) assistance during the examination to clarify the expectations and the questions, the visualization of the questions and instructions during a spoken test, making sure that they are easy-to-follow,

c) the provision of longer preparation time as compared to the preparation period established for students without disabilities,

d) the use of special tools and devices during the courses and the tests (especially media devices, computers, monolingual dictionaries, other supportive ICT technologies),

e) exemption from the obligation to take a language exam or certain parts or levels of the exam,

f) due to the difficulties arising from the student's developmental disturbance, exemption from the fulfilment of certain requirements of practice, or their substitution with other equivalent, yet not practice-based tasks,

g) the appointment of a personal coach for the student's studies.

(8) Preparation time shall be established in a period at least 30% longer than the one determined in case of students without disabilities.

(9) When it comes to multiple disabilities, the student may be granted any of the allowances mentioned in paragraphs (2)-(7), in consideration of his or her special needs.

(10) In justifiable cases and upon the student's request, the student may receive other or further allowances different from the allowances as per paragraphs (2)-(7). Such allowances shall be granted by the higher education institution based on an expert's opinion.

(11) Students taking part in a doctoral programme are not exempted from the obligation to take a language exam, or a part or a level thereof. And neither will PhD students or doctoral candidates receive such an allowance.

(12) Disabled students who have successfully passed their final examination, and whose student relationship with the higher education institution has thus ended, but in the case of whom the obligation to pass a language exam is yet to be met, are eligible for exemption from the requirement to take a language exam, or a certain part or level thereof."

Pursuant to Government Decree no. 389/2016 (XII. 2.) on the funding of the basic activities at higher education institutions, the amount of the supplementary normative support after disabled students will rise, from HUF 120,000 to HUF 150,000, as of academic year 2017/2018.

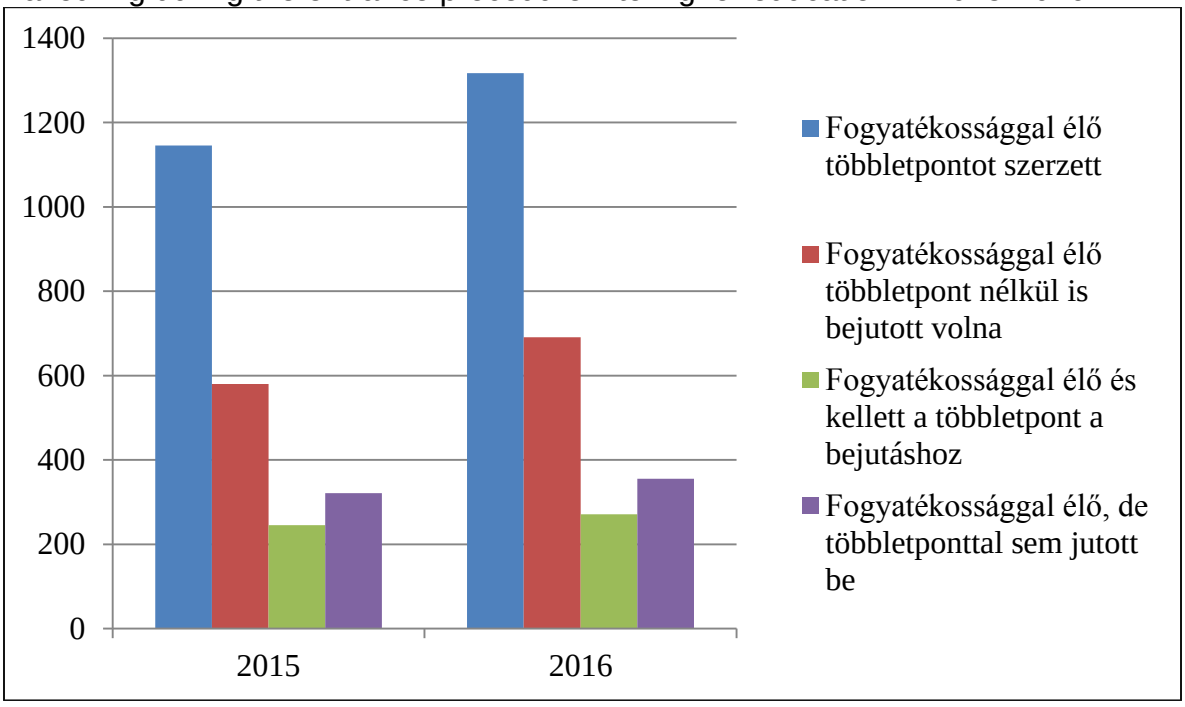
The call EFOP-3.4.3-16. titled “Improvements among higher education institutions for the joint improvement of the quality and accessibility of higher education” is, among others, aimed at better access to higher education and a more intensive participation in education, with particular attention paid to the disabled and the Roma among the indicated select target group. The institutions that are granted such support are obliged to organize supplementary programmes and gap courses for each disadvantaged group, including the Roma and people with disabilities.

The construction EFOP-3.4.4-16. titled “The execution of skills development and communication programmes for being admitted to tertiary education, and the promotion of MTMI majors in higher education” regards people with disabilities and socio-cultural disadvantages, typically the Roma as one of its target groups.

Statistical number of students with disabilities

	Total number of students	Statistical number of students with disabilities
2014/2015	306,524	2,025
2015/2016	295,316	2,176
2016/2017	287,018	2,437

Favouring during the entrance procedure into higher education in 2015-2016



Favouring in 2015-2016	2015	2016
Person with disability who acquired extra points	1146	1317
Person with disability for whom extra points were not necessary for access	580	691
Person with disability and extra points were necessary for access	245	271
Person with disability and even extra points were not enough for access	321	355

Type	Candidates acquiring extra points										Extra points were not necessary for access										Extra points were necessary for access										Even extra points were not enough for access									
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Persons with disabilities	1209	1340	1802	1675	2201	1780	1457	1067	1146	1317	535	851	834	707	960	870	883	580	580	691	181	325	626	574	723	456	267	201	245	271	493	164	342	394	518	454	307	286	321	355
Persons caring for their children	1052	1133	1688	1915	1877	1268	806	943	773	1224	446	806	1090	1027	1121	766	544	594	470	709	181	223	332	459	386	210	107	145	155	244	425	104	266	429	370	292	155	204	148	271
Disadvantaged persons	3861	3949	5687	7218	7416	6314	5569	4118	2271	1331	2146	2753	2982	3625	3862	3630	3504	2244	1148	728	311	667	1180	1560	1703	1055	1053	896	532	274	1404	529	1525	2033	1851	1629	1012	978	591	329
Multiply disadvantaged persons	1101	953	1476	797	991	812	0	0	0		530	541	589	282	369	306	0	0	0		176	279	557	296	337	216	0	0	0		395	133	330	219	285	290	0	0	0	

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;

- **The ECSR has concluded that the situation in Hungary is not in conformity with Article 15§2 of the Charter on the ground that it has not been established that equality of access to employment is effectively guaranteed for persons with disabilities.**

A. Regulatory background

Act XXVI of 1998 on the rights of persons with disabilities and the guaranteeing of their equal opportunities, in Articles 15-16, concerning employment stipulates that:

"Section 15 (1) Persons with disability are entitled, if possible, to integrated employment. In failure thereof, they are eligible for protected employment.
(2) The employer shall ensure the adequate transformation and adaptation of the working environment, and thus that of the tools and equipment, to the extent necessary for work. Financial support, from the central budgetary system, may be applied for to cover the costs related to adaptation.
(3) With the purpose of enhancing access to work for persons with disability, in the course of the recruitment and selection procedure, the employer shall provide for an environment that is accessible with equal opportunities.
(4) The employer shall be bound by the commitment as per Paragraph (3), if
a) the vacancy has been publicly advertised,
b) the disabled person applying for the job has indicated his/her special needs regarding the interview, and
c) the provision of the former do not put a disproportionally high burden on the employer. Disproportionally high burden is the case when the fulfilment of the obligation jeopardizes the employer's operation.
Section 16 When the employment of persons with disabilities is not possible within the scope of integrated employment, their right to work must be ensured through other means. Accredited employers and developing employers that employ persons with changed working capacity shall receive compensation/allowance from the state budget, as per the legislation."

The National Disability Programme for the period 2015-2025, in Chapter III/4, specifies the various employment-related duties.
As regards the employment of persons with disabilities and partially incapacitated workers, the primary objective in each case is to reach the biggest possible ratio of employment on the open labour market. Creating relations between employers and employees, properly preparing both sides and inspiring them to perform this type of

employment and work are all of vital importance in this regard. Accordingly, a key task is to assess the demand and supply side on the labour market, as well as to develop certain labour market services (including alternative ones) and the network of organizations offering these services.

Performing the work in the expected quality frequently requires disabled persons to have an individual work order and working environment. Therefore, it is especially important to disseminate atypical employment forms, to support certain possibilities for distance work and part-time work, as well as to sensitize and prepare the employers in this regard. The purchase of special devices that assist employment and the possibilities of disabled persons' accessibility to work (mainly through the development of support services) does need to be supported.

Continuous, targeted activities and long-term partnerships need to be developed in order to promote the marketing of products produced by disabled persons and partially incapacitated workers.

Employers, including organizations that perform public duties, and central administrative organizations need to be invited, in employment-promotion programs and job-creating grants, to employ persons with disabilities on the open labour market; the range of supported employment possibilities needs to be expanded, and the options of further enlarging the support system for the employment of disabled persons need to be assessed.

The various programs within the application system aimed at improving disabled persons' employment and qualification need to be attuned, made interdependent and harmonized with the various target groups' needs, through closer cooperation among the employment, educational and social sectors, also considering that the affected persons are in many cases multiply disadvantaged people.

Mentoring the complex rehabilitation of partially incapacitated workers and disabled employees, putting them to work and supporting their continued employment requires special expertise. So the legislative stipulation of a certain qualification as a precondition to the job is a priority objective. Supporting participation in relevant specialized extended trainings can mean a high quality step forward for those working in the field.

A mid-term implementation plan of the programme has been prepared for the period 2015-2018 for the accomplishment of the tasks.

B. Support to the employment of people with disabilities

- **Developing employment**

As for those disabled persons with reduced working capacity whose employment cannot be ensured within the framework of integrated employment, their right to work is ensured within the framework of permanent employment in protected conditions. Such employment shall be supported by the central budgetary system, as per the relevant legislation.

The task is built around developing employment introduced as of 1 April 2017, instead of social employment that has given its framework so far. Developing employment is a service, wherein people with disabilities, the homeless, addicted people and psychiatric patients receive personal development. In this employment form, the general goal is to improve the individuals' skills and capabilities, hence the name thereof. The employment of those involved in this form of employment does not reach the level of accredited employment, yet it differs from the therapeutic activity. In accordance with the care-taking, development and rehabilitation plans, it has been designed to prepare the individual for independent work or for entering the open labour market. This should be accomplished through the provision of development and employment services adjusted to the person's health conditions, age, as well as physical and mental status.

Developing employment is ensured as an independent social service, wherein the social employer must request its registration as a service provider prior to the starting date of employment. According to the legislative provisions, the organisation that ensures developing employment shall be regarded as a social service provider in the context of subject matters related to the performance of the activity.

The developing employer may use the subsidy for the following purposes: developing employment fee, salary-like payments, employment-related personal and material costs, purchase of tangibles, investment and job creation.

A precondition for being involved in developing employment as an employee is the use of a social service (such as basic communal care, supportive service, day-time care, institutional care services, residential care and subsidized housing).

Development may take place under employment, where the focus is on the maintenance and improvement of skills and capabilities in support of individual work, as well as on the study of new work processes, new professions and on making the individual get prepared to enter the open labour market.

Another possibility for developing employment is employment through a development contract, wherein the objective is to restore and preserve the individual's physical and mental capabilities as well as their work-related skills and capacities. The contract may be concluded in accordance with the individual employment plan, as per the recommendation of the occupational and organisational psychologist, if the individual's competencies do not reach the level needed for independent work.

Subsequent to the introduction of developing employment, in comparison of the former social employment scheme, the amount of the budgetary support rose, from HUF 372 to HUF 895 per hour, just like in the case of contractual employment where the original initial sum was HUF 744 an hour. In this way, the budgetary amount for developing employment was increased by HUF 238 million in 2017 as compared to the amount for social employment in 2016. Its former annual budgetary amount of HUF 4.6 billion in 2016 will increase by another 319.4 million HUF in 2018.

Developing employment is governed by Articles 99/B-99/D of Act III of 1993 on Social Administration and Social Services and Government Decree no. 191/2008 (VII. 30.) on the procedures for financing aid services and communal care services.

- **Accreditation**

Government Decree no. 327/2012 (XI.16.) on the accreditation of employers employing persons with changed working capacity and the budgetary subsidization available for their employment has been in force since 17 November 2012, in the framework of which employers may apply for employment subsidies and pursue rehabilitation activities. According to the regulation, employers are obliged to have an accreditation certificate issued on the basis of an accreditation procedure when it comes to subsidized employment. The single subsidization scheme is adopted to the health conditions of those with changed working capacity. Salary and cost subsidization may be granted to accredited employers through tendering. The single subsidization scheme is adopted to the health conditions of those with changed working capacity; the employee may receive allowances for transit and subsidized permanent employment.

Transit employment – offering protected conditions – prepares employees who can be rehabilitated for permanent employment on the open labour market; the maximum length of the preparation phase is 3 years. Transit employment meets its objective if the person with reduced working capacity, after participating in transit employment, finds continuous employment on the open labour market for at least 6 months. The process is monitored for 6 months.

Permanent employment entails the protection and development of the labour force skills, the health status, and the physical and mental abilities of employees with reduced working capacity within the framework of an employment relationship. Permanent employment can be established for a period of 3 years and it can be re-established without limitations.

The accreditation certificate for rehabilitation requires the employer to meet stringent conditions, which not only contain company-related provisions, but cover requirements for employment conditions too. Such are, for example:

- the monthly number of employees with changed working capacity who are contractually employed shall reach 30, or the ratio thereof shall exceed 25% against the total number of employees,
- the employer shall have a professional programme for employment rehabilitation. It shall employ a rehabilitation consultant, a rehabilitation mentor or an assistant,
- the employer shall prepare individual rehabilitation plans, and shall provide for the opportunity to use the aid services specified therein,
- in addition to unskilled and labour jobs, the employer shall make available positions that require qualifications,
- training opportunities for successful rehabilitation – and in the case of transit employment, for successful placement on the open labour market – should be ensured by the employer itself or with the involvement of an institution for adult education.

A comprehensive supervisory system is in operation for the constant fulfilment of professional requirements, which is also responsible for withdrawing certificates if needed

Within the framework of accredited employment, approximately HUF 34 billion was channelled from the central budget; to employ approximately 30,500 persons with changed working capacity in 2013, 2014, 2015 and 2016.

The Government is committed to provide people with changed working capacity or disabilities with the alternative of wage-subsidy-driven employment adopted to their capabilities, talent or limits.

Bound by this commitment, and with due regard to the significant increase in minimum wages, the amount of the subsidy per person was also raised in 2017 – from the annual sum of HUF 1,120,000 (in 2013-2016) to HUF 1,288,000. With a view to maintaining the employment level among those with changed working capacity who are involved in employment rehabilitation, in 2017 the Government repeatedly allocated an excessive resource of HUF 5.1 billion to keep up the capacity level in rehabilitation employment at an order of 30,700 people. In this way it envisaged to make sure that there was coverage for increased wages among employees with reduced working capacity.

- **Rehabilitation Card**

As of 1 July 2012, the Rehabilitation Card, a new form of support was introduced. Rehabilitation Cards are issued by the National Tax Authority for eligible persons with reduced working capacity. On the basis of the Rehabilitation Card, employers are eligible – for the total length of the employment of the person with reduced working capacity – for a tax benefit with regard to the social contribution tax. Such benefit shall be adjusted to the social contribution tax base of the (gross) wage which is used for the calculation of the tax base and from which the contributions payable by the employees and other deductions are not yet deducted. The above amount cannot in any case be more than the social contribution tax base to twice the amount of the minimum wage. The subsidy, after a person with reduced working capacity, may be applied for by only one single employer at a time. Yet, it may also be requested by any employer, even an accredited employer.

Act CXXIII of 2004 on the promotion of the employment of school leavers, unemployed aged 50 and over, people returning to work after child care or nursing and the introduction of the paid internship programme contains basic rules and regulations for the Rehabilitation Card. Therein Article 16/A brought about changes in favour of employment in 2017. It extended the scope of people entitled to the Rehabilitation card in order to strengthen the institution of open labour market employment. Part of those receiving invalidity allowance (namely the ones with a classification of B2 and C2) became eligible, positively affecting a group of almost 140,000 people, who could not request such a card until now.

With this measure, the number of employees holding a rehabilitation card and the number of organisations employing them further increased. In July 2012 there were 5574 card holders working for 3217 employers. This changed, in 2016, to an average of 26,000 employees at 7500 employers, whereas in August 2017, 8410 employers applied for social contribution after 33,716 people with changed working capacity, in an amount of HUF 712.2 million.

- **Encouraging the employment of those with reduced working capacity, employers' interests**

During an employment relationship, the employer shall continue to put the worker with disabilities in a position that is appropriate based on their condition, as defined in a separate statute.

As a general rule the employer shall not terminate a person's employment by ordinary termination (unless they otherwise receive a pension) within five years before they reach the retirement age for old age pension. Prior to the applicable retirement age, their employment may be terminated only in particularly justified cases (protection on account of age) [Act I of 2012 on the Labour Code (hereinafter referred to as Labour Codhereinafter referred to ase) Section 66 (4)-(5)]
The exclusive reason for the employer to terminate a person's employment may not be based on the employee's health conditions, when it comes to employees receiving rehabilitation allowance or rehabilitation benefit. The employer may not terminate the employment relationship with a notice, unless the employee cannot be employed in his or her original position any longer and the employer cannot offer him/her another position that is suitable for the employee with regard to his/her health conditions, or the employee rejects the position offered to him/her without any justified reason.

In accordance with Section 23(1) of Act CXCI of 2011 on the benefits of persons with changed working capacity and on the amendment of certain acts, the employer is obliged to pay rehabilitation contribution in purpose of promoting the employment rehabilitation of those with changed working capacity, if the number of the employees exceeds 25 and the number of his employees with changed working capacity is lower than 5% of the total workforce (compulsory employment level).

The sum of rehabilitation contribution equalled the amount fixed in the reporting period of 2013-2016, that is HUF 964,500 per person / year. However, as of 2017, it follows the rising tendency in minimum wages, even more efficiently encouraging the employers to employ people with changed working capacity instead of choosing to pay contributions. As a consequence, from 2017 on, pursuant to Article 23(5) of Act CXCI of 2011, the rehabilitation contribution amounts to 900% of the minimum compulsory sum of the basic salary established, on the first day of the actual year, for the employee in full-time employment. The per capita sum shall be understood for one year.

- **Public procurement**

As of 1 April 2017 some amendments have been made to the Act on Public Procurement, to facilitate the extended employment of those with changed working capacity. For this, a growing number of purchase orders is expected.

Under Article 33(1) of Act CXLIII of 2015 on Public Procurement, the contracting authority may reserve the right to participate in public procurement procedures, or – in cases set forth by the Government – it is obliged to reserve this right for organisations that classify as workplaces under protection, where over 30% of the staff constitutes employees with reduced working capacity or disadvantages. The requirement is also applicable for those developing employers, where over 30% of

the staff are people involved in developing employment. The contracting authority may as well provide – or it must provide in cases set forth by the Government – that the public procurement agreement be completed through a job-creation programme, in the framework of which the staff who get employed will, in 30%, consist of people with changed working capacity, or of people with disabilities or disadvantages (programme for protected job-creation). This shall be referred to by the contracting authority in the call for the procedure.

- **Other programmes in support of integration**

In order to provide for equal opportunities and to improve the standards of living of those with changed working capacity through employment, various programmes are organised in support of integration, with the involvement of actors from the civil and private sector. The programmes are meant to contribute to the establishment of an employment rehabilitation system, the pillars of which support one another. It facilitates the development of more targeted programmes and interventions in the labour market with a view to strengthening the employment of those with changed working capacity and to raising social awareness. In years 2016-2017 the employment of school leavers with disabilities is identified as one of the focal points of these programmes.

There are several other programmes promoting social acceptance and inclusion, which receive support year by year. Such are the Recognition for Disabled-friendly Workplaces, the Help to Buy Programme, and the programme “We make it a better world” (Jobb Velünk a Világ).

The Recognition for Disabled-friendly Workplaces is ceremonially awarded every year to winner companies based on their tenders.

The primary objective of the “Buy to Help” logo is to boost demand for quality products made by persons with reduced working capacity/persons with disabilities. The logo certifies that the product was produced by an employer that employs, at least to a degree of 50 %, persons with reduced working capacity/persons with disabilities. With the logo, the manufacturer draws the customers' attention to the fact that their purchase contributes to the employment of disabled people.

We wish to improve and extend the programme 'We make it a better world' in 2017, so that with its wider scope it will have a better outreach. To this end, on the occasion of the Day of the Disabled, besides the central gala party in the National Theatre, Budapest, other programmes will be held in the country too. The renewal of sensitisation programmes is also under consideration, to extend the scope with students doing voluntary work. Thus students' commitment to equal social opportunities will be raised even before they enter the labour market.

The idea to organise the international programme 'Duo Day' in Hungary too will make sure that the employment of people with disabilities and reduced working capacity gets into the spotlight. The programme was extended to every county and the capital as early as 2017.

- **EU programmes**

EFOP-1.1.1-15: **Support to people with changed working capacity**

The priority objective of the project EFOP-1.1.1-15-2015-00001 “Support to people with changed working capacity” is to foster the integration, into the open labour market, of those with reduced working capacity by way of providing employment rehabilitation services and the application of active labour market tools.

In the less developed regions an amount of HUF 12 billion is available. In the meantime, in the Central Hungarian region another 2 billion Hungarian forints has been channelled through program VEKOP 7.1.3. for salary subsidization, training and service provision in order to help the employment of thousands of people with changed working capacity until 31 May 2019.

Until 31 August 2017 the government offices have referred 8302 persons with reduced working capacity to EFOP offices. 6929 programme participants have got involved in the project. From among them, 1998 persons have entered the open labour market without a salary subsidy so far. In addition to the above, almost 11 000 employers have been informed about the possibility of subsidized employment.

The project is primarily aimed at a broader choice of employment for people with changed working capacity and the stimulation of the workforce demand. The clientele's higher adaptability to the labour market is given a special role, just like their preparation for starting a job, and the improvement of their skills to get integrated into the labour market, along with a higher level of qualifications. Another goal is to raise awareness among employers who have the capacity to employ people with reduced working capacity, and to encourage them to hire workforce through the various benefits and respective employment rehabilitation services.

EFOP-1.9.3-VEKOP-17: Technical process development for employment rehabilitation

Special project EFOP-1.9.3-VEKOP-17-2017-00001 facilitates the revision of technical proposals for the future and the development of new technical recommendations and concepts. The project has been announced with the aim to enable the execution of improvements for the rehabilitation of people with changed working capacity. The project's beneficiary is the Directorate-General for Social Affairs and Child Protection.

Out of the total budgetary sum of HUF 4.2 billion, the upper threshold of the grant under EFOP amounts to HUF 2.94 billion, whereas under VEKOP it is HUF 1.26 billion.

The project concentrates on improving the integration and bettering the life perspectives of those with changed working capacity, particularly their chance of employment, through the improvement of the technical rehabilitation scheme. Part of this constitutes the invigorated employment of persons with changed working capacity, and the improvements for the adaptation of workplaces to people with reduced working capacity.

Project sub-objectives:

a) further technical development of the rehabilitation system,

b) the creation of an environment that encourages the employment of people with changed working capacity (regulatory, physical and personal), the practical development of the rehabilitation system.

ad.) a) The technical improvement of the operations and the operational environment of the rehabilitation system incorporates, among others, the following plans:

- the establishment of a Rehabilitation Development Centre,
- the technical support of a national consultancy network (procedures, technical guidelines, the employment of 2 consultants per county on average, with a view to the nationwide spread of the improvements under the project),
- the development of training materials for a single and solid knowledge-level among specialists working in the field of complex rehabilitation, and the development of professional and training materials against their burn-out,
- the drafting of proposals for professional development for decision-makers, the creation of procedures for government offices with a view to unify procedures, reduce the red-tape burden and streamline processes,
- the mapping of working probes and their possibilities, the development of alternative methods and their testing, atypical forms of employment, the discovery of the practical experiences of distance work, the systematization of good practices, the elaboration of guidelines,
- the development and spread of transit methodologies,
- the completion of the service with elements specific to the methodological target group (e.g. psychiatric patients, people suffering from hearing impairment),
- the gathering of good practices for job-retention and rehabilitation promotion, the creation of a manual
- employment rehabilitation-oriented labour market research and forecast on the exact scope of the demand and supply on the labour market and the potential features thereof.

ad. b) The creation of an inspiring (regulatory, physical and personal) environment for people with changed working capacity, and the testing, in practice, under the practical improvement of the rehabilitation system, of those proposals that have been developed through the project in view of better employment rehabilitation:

- the assessment and further development of those IT systems and means of alignment for the demand and supply on the labour market, which are the results of the relevant root projects. Such activities, inter alia, cover the monitoring module for distance work,
- the promotion of workplace adaptation to persons with changed working capacity (accessibility and/or workplace adaptation and/or job creation, job transformation and/or access to work equipment),
- the use of rehabilitative engineering services.

The practical testing of development proposals for employment rehabilitation under the project enables the support of the training and mobility of those with changed working capacity. It also allows adaptation (in view of creating 1500 further jobs), the training of experts to promote accessible workplaces and the use of built-in work equipment, as well as employment rehabilitation services for employers.
The envisaged duration of the project is 36 months.

EFOP-1.1.6-17 – For accredited employers – The enhancement of collective and individual employment among people with reduced working capacity

With a budgetary source of HUF 1.2 billion, the project is dedicated to the following:

- The promotion of transiting for employees with changed working capacity or disabilities, through training, retraining, vocational training, sensitisation and competency enhancement.
- Assessment-based training, transit enhancement services

The call has received 15 applications, out of which 12 were granted support in an amount of HUF 1,120,048,353.

EFOP 1.11.1.-15 – Social enterprises

Pilot programmes for a strengthened social economy and for the employment of the most disadvantaged groups through the cooperation of non-profit organisations and businesses, under a budgetary limit of HUF 5 billion. Projects complying with the call's requirements shall receive a minimum grant of HUF 30 million and a maximum grant of HUF 50 million per project, within the scope of the available resources.

Aim:

- enhanced employability among the most disadvantaged social groups;
- newly-created social enterprises on the basis of existing organisations, the adaptation of new models and innovative solutions within existing organisations;
- innovative, modern and sustainable solutions for social integration, relying on the means of the social economy;
- collaborations between the non-profit and for-profit sector, and the strengthening thereof, where non-profit sector participants are primarily involved in charity activities;
- temporarily strengthened employment potentials of organisations that provide public services as a non-public organisation. Such enhancement shall be ensured through the support of organisations in the social economy, with a view to improving the target group's skills.

Target group: Those who have a permanent address or stay permit in any of the 109 districts under Government Decree no. 290/2014 (XI.26.) or in the beneficiary settlement under Government Decree no. 105/2015 (IV. 23.) and who are

- disadvantaged people facing the difficulty of employment,
- addicted persons,
- persons without primary education qualifications,
- registered job-seekers for at least 18 months,
- publicly employed,
- of Roma origin, looking for a job for at least 12 months,
- persons with changed working capacity.

- **Open to change – social farm**

New initiatives, promising new perspectives and new opportunities as compared to the practice so far, may serve as a drive for employment in respect of people with changed working capacity or disabilities.

Social farm is a new initiative of this kind, proposed by the civil sector, namely the Szimbiózus Alapítvány (Symbiosis Foundation).

The Working Group Social Farm came into existence with the contribution of the Ministry of Agriculture and the Ministry of Human Capacities (EMMI) to draft a proposal for the creation of Social Farms. It was presented to the Interministerial Committee for Disability, which it later adopted with Decision 3/2016/FTB. The proposal defined the concept of the activity and the necessary amendments to the legislative environment.

The social farm is a cooperative management-based collaboration between organisation(s) whose operation is based on social and environmental awareness-raising in accordance with the social principles and the principle of solidarity. Their members perform farming, processing activities, they provide services with the engagement of people with disadvantages, disabilities and changed working capacity. Its members may as well carry out awareness-raising, agriculture-related supplementary activities for the broader society.

The social farm, thus, is not a new type of entity, but the name of a complex activity, the agricultural elements of which do not guarantee economic sustainability.

With the establishment of the Hungarian Social Farm Association, an organisation was created for mentor-networking activities in order to enhance implementation.

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

- **The Committee concludes that the situation in Hungary is not in conformity with Article 15§3 of the Charter on the ground that it has not been established that effective remedies are guaranteed for persons with disabilities who allege discriminatory treatment.**

The role of the Equal Treatment Authority (hereinafter referred to as EBH) in respect of the right of appeal

According to Section 8(g) of Act CXXV of 2003 on equal treatment and the promotion of equal opportunity (hereinafter referred to as Ebktv.), disability is a protected characteristic. Based on the above, the requirement of equal treatment towards people with disabilities shall be observed by the bodies under Section 4 and Section 5(a)-(d) of Ebktv. In the context of Section 14(1) of Ebktv., EBH may – upon request or in certain cases – take action ex officio against the bodies mentioned in Section 4(a)-(d), if they have violated the rules of equal treatment. Therefore, it may take action to individual request; yet social organisations may also act as a public claimant in favour of persons with disability.

- In 2016 the authority launched a procedure in 92 cases, wherein the applicant's protected characteristic was disability. In 9 cases an infringement of rights had been established. In another 15 cases the clients made an agreement before the authority, which was subsequently approved by the authority's decision. In 18 cases the complaint was found unjustified and thus rejected. In the other cases the procedure was either prolonged to year 2017, or a court decision was made to terminate the procedure with regard to the withdrawal of the application or due to failed regularisation.
- The authority may impose sanctions against the infringer under Section 17/A (1)(a)-(e) of Ebktv., even more than one sanction at a time.
- The authority will verify compliance with the requirement mentioned in the final decision (e.g. completion of accessibility works) under an implementing procedure. Incomplete delivery or non-compliance will be punished with implementation-related fine.
- The authority shall be in contact with several civil organisations (e.g. MEOSZ, VGYKE, SINOSZ) in representation of people with disabilities. If requested, it will deliver presentations about its work or the cases under investigation. It shall also provide statistical data to the organisations.

The role of the Office of the Commissioner for Fundamental Rights (hereinafter referred to as AJBH) in respect of legal remedy

In harmony with the Fundamental Law of Hungary, the act on the Commissioner for Fundamental Rights was also adopted to establish a new single ombudsman system. The Commissioner for Fundamental Rights is solely accountable to the Parliament. The ombudsman shall be independent in his/her acts and procedures, subordinated only to Acts and the Fundamental Law. The Commissioner for Fundamental Rights shall enjoy the same immunity as Members of Parliament. To the proposal of the President of the Republic, the ombudsman shall be elected for a period of 6 years with a two-third vote of MPs. The Commissioner shall report to the Parliament about his or her work on an annual basis.

As per Section 1(3) of Ajbt., in the course of his or her activities the Commissioner for Fundamental Rights shall pay special attention to assisting, protecting and supervising the implementation of the Convention on the Rights of Persons with Disabilities. The strong constitutional protection of people with disabilities, equal opportunities and the narrative of equal dignity constitute new and non-elective duties in the Hungarian scenery of public law. Through continuous, regular and permanent action, and the efficient communication thereof, the explicit goal is to make the new paradigm get implemented in general thinking. The Commissioner has special tools. Competence sets a pragmatic boundary. Yet, it is still due to the constitutional function regarding the protection of fundamental rights that the sensitive widening of the merits can also be traced in the Commissioner's practice [1]. Investigation based on the complaints and reactive action does not obviously mean the power of the real rights protection mechanism in respect of socially exposed groups. Nonetheless, it is apparent that they may find remedy to individual problems. Notwithstanding, if the Commissioner decides to demonstrate a broad social problem in the framework of an investigation ex officio (that is in a project programme), the substantive result may as well have a wider outreach in every aspect. The method of proactive investigation, therefore, is a definite and real alternative in the Commissioner's choice of means for the protection of rights. The Commissioner, of course, may as well decide to initiate a *post norm-control procedure* based on the submission concerning the objection against authority-level law enforcement. Yet, he or she may as well decide to turn to the Committee based on special submissions that criticize specific constitutional legislations. The Commissioner may as well initiate the revision of a problematic legal provision, either in the form of a measure, or directly, upon a citizen's remark. Such proceedings shall be initiated before the Constitutional Court. Otherwise, if local government regulations are in conflict with other legislations, the proceedings shall be taken to the Curia. The above thus all serve as significant tools for the Commissioner in his or her dogmatic framework for troubleshooting.

The primary duty of the Commissioner lies in his or her obligation to investigate impropriety in relation to fundamental rights, and to initiate general or special measures for their redress. It is at the will of the Commissioner to choose the measure that he or she finds suitable, within the scope of the legislation governing his or her competence. Accordingly, the Commissioner may

- address a recommendation to the supervisory organ of the authority subject to inquiry to redress the impropriety in relation to a fundamental right,
- may initiate to redress the impropriety with the head of the organ subject to inquiry,
- may turn to the Constitutional Court,

- may initiate procedures, with the Curia, to review the compliance of the local government regulation with other legislation,
- may initiate proceedings for the supervision of legality by the competent prosecutor through the Prosecutor General,
- if there is a well-founded suspicion that a regulatory offence or a disciplinary offence has been committed, he or she may initiate regulatory offence proceedings or disciplinary proceedings with the organ authorised to conduct such proceedings, whereas if a crime has been committed, he or she is obliged to initiate criminal proceedings with the competent organ,
- may initiate the modification of the legislation or the governing tool for public law organisations. He or she may as well initiate their replacement or issuance with the body entitled to legislation or the issuance of a governing tool for public law organisations.
- as a final measure, may take the case to the Parliament under his or her annual statement.
- Pursuant to Act CXI of 2011 on the Commissioner for Fundamental Rights (Ajbt.), Article 18, anyone may turn to the Commissioner for Fundamental Rights, if in his or her judgement the activity or omission of
- a public administration organ,
- a local government,
- a nationality self-government,
- a public body with mandatory membership,
- the Hungarian Defence Forces,
- a law-enforcement organ,
- any other organ acting in its public administration competence, in this competence,
- an investigation authority or an investigation organ of the Prosecution Service,
- a notary public, a bailiff at a county court,
- an independent bailiff, or
- an organ performing public services infringes a fundamental right of the person submitting the petition or presents an imminent danger thereto, provided that this person has exhausted the available administrative legal remedies, not including the judicial review of an administrative decision, or that no legal remedy is available to him or her.

AJBH reports are available, in Hungarian and English, at: http://www.ajbh.hu/hu .

- **The Committee concludes that the situation in Hungary is not in conformity with Article 15§3 of the Charter on the ground that it has not been established that persons with disabilities have effective access to housing.**

The replacement of places at institutions

Based on the experiences of the projects delivered in the institutional capacity replacement process as of 2011, after due preparation and a great number of discussions, the time has come in January 2017 to issue Government Decision no. 1023/2017 (I. 24.) about the 2017-2036 concept for the replacement of places at social care institutions for persons with disabilities. As compared to the previous strategies it means a step forward that the interval set forth for the goals has become 5 years shorter. The State Secretariat for Social Affairs and Inclusion deals with the

replacement of social institutions as a priority issue in the planning and implementation of the Human Resource Development Operational Programme (2014-2020). In the spring of 2017 several tender constructions were born, which all aimed at the full-scope replacement of high-capacity social care institutions for community-based care services that are high-standard, accessible and reflect to the residents' needs. The forthcoming few years are planned to see the elimination of 10,000 places from these resources. Their termination shall be accomplished by the closing of large institutions to give place to community-based housing and other services of assistance.

The promotion of accessible housing for people with disabilities

Hungary was among the first to ratify the **UN Convention on the Rights of Persons with Disabilities**. In Article 28 – Adequate standard of living and social protection – it ensures access by persons with disabilities to social protection programmes, to public benefits and housing programmes.

In order to mitigate the disadvantages of people with disabilities, to lay the foundations for their equal opportunities, and with a view to raise social awareness, the Parliament drafted **Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities**, in accordance with the Fundamental Law and based on the generally recognised rules of international law. The Act stipulates the following: Section 1: The Act is aimed at giving a definition to the rights of persons with disabilities and their means of enforcement, just like the regulation of complex rehabilitation provided for persons with disabilities. In addition, as a result of all this, it seeks to ensure equal opportunities for persons with disabilities, to guarantee independent living for them as well as arrange for their active participation in the society. Section 5 (1): Any person with disabilities is entitled to an accessible man-made environment, which is safe and perceivable. Section 17 (1): Any person with disabilities has the right to choose the appropriate housing form (family, residential home, institution), based on his/her disabilities and personal circumstances.

In connection with housing for persons with disabilities the **National Disability Programme (2015-2025)** lays down the following:
“The principles of self-determination and social integration must be taken into account with special emphasis upon planning and implementing the decisions and programs related to disabled persons' housing. (…) The range of basic social services promoting independent living and the scope of services close to the residence need to be enlarged in order to promote staying at home. The support system for the disabled accessibility of flats and the residential environment must be reviewed, alongside the consideration of any alternative solutions (including social tenements available to disabled adults, or special self-owned savings forms)”.

As per measure 7.2 of the Action Plan for period 2015-2018 concerning the implementation of the **National Disability Programme**,
“a cross-sectoral working group, including the involved civil parties, should be set up in order to elaborate a proposal for the review of the supporting system for improved accessibility of flats and residential environments and for the restructuring of the supporting system”.

The **Interministerial Committee for Disability** created a working group on 2 December 2015, during the meeting of the former, in order to revise the housing and living environment support system. The task of the working group is to review the support system concerning the accessibility of the housing and living environment, and to draft a set of proposals for the reform of the support system.

The **working group** had met multiple times in spring 2016 and presented a proposal about its suggestions to the Committee. At present the concrete modification proposal is being lodged, alongside the drafted suggestions, with a view to amend Government Decree 12/2001 (I.31.) on state subsidy for housing.

Accessibility support is available in Hungary, that in its present form is a direct, non-refundable state aid provided to persons with reduced mobility, that may be utilised for housing construction, home buying, and construction and engineering accessibility works related to home use, decreasing living issues, permitting the intended use of the house.

From 1 January 2016, the Government increased the allocation to be applied for to HUF 300,000, and another beneficial change was made in that, in justifiable cases, the support may be applied for again in 10 years.

The current amendment proposals allow for application, for the subsidy, after persons and not housing. Therein the underlying reason for and the justifiability of the application should not be sought in accessibility or necessary and possible conversion. Instead the focus shall be shifted to needs and demands along the personal, tailor-made, needs-based care for persons with disability. Proposals also cover the issue of a broader range of people with disabilities who are eligible for allowances. Thus the scope shall be extended to people suffering from hearing impairment, visual impairment, autism spectrum disorder or mental disability as well as to their families. The working group furthermore suggests that the subsidy should be available for application even in terms of dwelling purchase or change, if it guarantees accessible housing conditions for the interested parties.

APPENDIX

Sources of international agreements incorporated into Hungarian Law

(In the appendix of the questionnaire, from among the international conventions referred to with regard to Articles 2, 5, 6, 21 and 22)

Name of Convention	Date of Signature of Convention	Ratification, date of accession	Number of Law
International Covenant on Economic, Social and Cultural Rights (1966)	25 March 1969	17 January 1974	Legislative Decree No. 9/1976 on the Promulgation of the International Covenant on Economic, Social and Cultural Rights accepted on 16 December 1966 by the 21st session of the General Assembly of the United Nations
European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)	06 November 1990	05 November 1992	Act XXXI of 1993 on the Promulgation of the Convention for the Protection of Human Rights and Fundamental Freedoms Signed in Rome on 4 November 1950, and the Eight Protocols of the Same
ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise (1948)	06 June 1957	06 June 1958	Act LII of 2000 on the Promulgation of Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, adopted by the 31st session of the International Labour Conference in 1948
ILO Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (1949)	06 June 1957	06 June 1958	Act LV of 2000 on the Promulgation of Convention No. 98 concerning Application of the Principles of the Right to Organise and to Bargain Collectively, adopted by the 32nd session of the International Labour Conference in 1949
ILO Convention No. 154 concerning the Promotion of Collective Bargaining (1981)	04 January 1994	04 January 1995	Act LXXIV of 2000 on the Promulgation of Convention No. 154 concerning Promotion of Collective Bargaining, adopted by the 67th session of the International Labour Conference in 1981