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EUROPEAN SOCIAL CHARTER

4th National Report on the implementation of the European Social Charter

submitted by

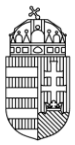
THE GOVERNMENT OF HUNGARY

(Articles 2, 5, 6, 21 and 22)

for the period 01/01/2009 – 31/12/2012)

Report registered by the Secretariat on 6 January 2014

CYCLE 2014



National Report

Tenth National Report

on the implementation of the obligations set forth in the European Social Charter and the Revised European Social Charter

(Fourth National Report on the implementation of the Revised Social Charter)

Submitted by
the Government of Hungary

covering the period from 1st January 2009 until 31st December 2012

Budapest, October 2013

Under the reporting procedure set out in Article 21 of the European Social Charter, the reporting obligation extends to the accepted articles of the European Social Charter. 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. On the basis of Resolution CM(2006)53 of 3 May 2006 of the Committee of Ministers of the Council of Europe, the national report of the year 2013 shall cover the topics of labour rights.

The report shall cover the implementation of the following articles of the European Social Charter and the Revised European Social Charter, ratified and approved by Hungary, with regard to the period indicated in the Table:

Provision	Reference period covered by the Report
Article 2, paragraph 1	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 2, paragraph 2	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 2, paragraph 3	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 2, paragraph 4	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 2, paragraph 5	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 2, paragraph 6	1 June 2009 – 31 December 2012 (Revised Charter)
Article 2, paragraph 7	1 June 2009 – 31 December 2012 (Revised Charter)
Article 5	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 6, paragraph 1	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 6, paragraph 2	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 6, paragraph 3	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 6, paragraph 4	1 January 2009 – 30 May 2009 (Charter) 1 June 2009 – 31 December 2012 (Revised Charter)
Article 21	1 June 2009 - 31 December 2012 (Revised Charter)
Article 22	1 June 2009 - 31 December 2012 (Revised Charter)

Hungary is fulfilling its reporting obligation with regard to paragraphs 6 and 7 of Article 2 and Articles 21 and 22 for the first time. The National Report has been made on the basis of the questionnaire approved by the Committee of Ministers of the Council of Europe on 26 March 2008.

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).

List of legislation referred to in the Report

- Fundamental Law of Hungary
- Act III of 1952 on the Code of Civil Procedure
- Act IV of 1959 on the Civil Code of the Republic of Hungary
- Act VII of 1989 on Strikes
- Act XXII of 1992 on the Labour Code
- 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 XLIII of 1996 on the Service Relationship of Professional Members of the Armed Forces
- 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 1992on 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 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 Non-Governmental Organisations
- Act CLXXXI of 2011 on the Court Registration of Non-Governmental Organisations and Related Rules of Proceeding
- Act CXCI of 2011 on the Provisions of Persons with Reduced Working Capacity and the Amendment of Other Acts
- 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 Hungarian Private Soldiers

- Government Decree No. 170/2006. (VII. 28.) on the Responsibilities and Competencies of the Minister of Social Affairs and Labour
- 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. 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

- FMM (Employment and Labour Affairs Ministry) Decree No. 2/2004. I. 15.) on the Detailed Rules of the Declaration and Registration of Collective Agreements
- SZMM (Ministry of Social Affairs and Labour) Decree No. 22/2009. (IX. 30.) on the implementation of Act LXXIV of 2009 on Dialogue Committees at Sectoral Level and on Certain Issues of Intermediate Level Social Dialogue
- NGM (Ministry for National Economy) Decree No. 3/2012. (II. 10.) on the Amendment of Certain Ministerial Decrees Related to the Establishment of the National Labour Office
- NGM (Ministry for National Economy) Decree No. 17/2012. (VII. 5.) on the Amendment of Certain Ministerial Decrees Related to the Promulgation of the New Labour Code

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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

A. Employment-related provisions

I. The former Labour Code

In the reporting period, with regard to providing for reasonable daily and weekly working hours, legislation was amended in the fields specified below:

With effect from 1 January 2012, Para. (3) of Article XVII of Hungary's Fundamental Law provides that every employee shall have the right to working conditions which respect his or her health, safety and dignity.

With regard to granting **rest periods during work**, with effect from 1 January 2010, point a) of Para. (6) of Section 55 of Act CXXVI of 2009 on amending certain labour acts modified Section 122 of the Act on Labour Code (hereafter: former Labour Code) in order to eliminate problems related to the interpretation of law. The amendment is intended to clarify the obligation to grant rest periods during work of a minimum duration of twenty minutes and of a maximum duration of one hour, including a single uninterrupted rest period of minimum twenty minutes. Accordingly, Section 122 of the former Labour Code laid down the duty to grant a single, uninterrupted rest period of minimum twenty minutes.

For the purpose of **harmonization with sectoral regulation,** the following authorizing provisions of the former Labour Code were amended:

With effect from 1 January 2009, Para. (1) of Section 34 of Act LXI of 2008 on the amendment of Act XXXIII of 1992 on the legal status of public employees amended Section c) of Para. (2) 117/A (2) c) of the former Labour Code. According to the provision, a separate act or a collective agreement may depart from Para. (3) and (6) of Section 119 of the former Labour Code inasmuch as the working hours of employees employed to do jobs of non-stand-by nature may not exceed – on the average of the bank of hours – 60 hours per week, or, in the case of on-call duty in the healthcare sector, 72 hours per week.

With effect from 1 January 2010, Section 72 of Act CLIV of 2009 on the amendment of certain acts on healthcare introduced a new point h) in Para. (2) of Section 117/A of the former Labour Code. Pursuant to this provision, a separate act may depart from the provisions of Para. (2) of Section 119 of the former Labour Code and of the first sentence of Para. (6) of Section 129 of the former Labour Code inasmuch as – for employees in the healthcare sector – it may define deadlines for informing the employees of the schedule of their working time which are more favourable them. With regard to the amendment of Act LXXXIV of 2003 on

certain aspects of healthcare activities (hereafter: Eütev.), the provision allowing departure must be clarified in order to guarantee that Eütev. may define a deadline for the notification of the employee of the schedule of his or her working time that is earlier than the seven-day deadline prescribed by the former Labour Code.

According to the legal regulation adopted under this authorisation in the health sector, the workers employed in the health sector shall be notified in writing at least one month ahead and at least one month in advance regarding the work schedule, including the healthcare sector stand-by and on-call duty schedules, unless otherwise specified in the collective agreement.

The stand-by duty has a special sectoral labour law content in the health sector (legal instrument of the so-called "healthcare sector stand-by duty"), the total duration of healthcare sector stand-by duty and the duration of the special work duty as ordered in addition to the healthcare sector stand-by duty shall also be included in the working time. In the case of on-call duty, the time between the call to work (and not the arrival to the workplace) and the conclusion of work shall be considered as working hours when calculating the working time of workers employed in the health sector.

With effect from 1 June 2009, Section 7 of Act XXXVIII of 2009 on the amendment of acts affecting the requirement of regulated labour relationships and other measures necessitated from the aspect of labour introduced Section 117/C on **the lengthening of working hours** in the former Labour Code, as specified below.

"117/C. § (1) In case the full working time defined on the basis of Para. (2) of Section 117/B is shorter, the employer and the employee may conclude a written agreement – on the basis of the provisions of para (2) – to the effect that the working time is increased until 31 December 2011.
(2) If the conditions set forth in Para. (1) are fulfilled, the working time may be lengthened in consideration of the difference between the duration of full-time working time (as specified in Section 117/B (1)) and the duration of shorter full-time working time (as specified in Para. (1)) – provided that the maximum duration on the basis of which this difference is calculated is the period from 1 April 2009 and 31 December 2011 – in a manner which ensures that the weekly full-time working time does not exceed forty-four hours.
(3) Until 31 December 2011, the employer shall give notice of the termination of employment with reference to the employer's operations or of ordinary termination of employment as specified in Para. (1) of Section 94/E of the Labour Code, if the full-time working hours of the employee (as defined under the present Section) are longer than forty hours per week.
(4) Any ordinary termination of employment by the employer or any notification effected in violation of the provisions of Para. (3) shall be unlawful.
(5) The personal basic pay of the employee shall not be affected by the fact that his or her full-time working hours – calculated on the basis of this Section – exceed forty hours per week.
(6) On the basis of the provisions of Para. (5), the hourly wage of the employee earning hourly wages shall be calculated taking the pro rata reduction into consideration."

The amendment is intended to introduce modifications justified by the economic environment, in certain cases, only on a temporary basis. Such modifications aim at enhancing the employer's adaptation to the changing economic conditions and promoting a more flexible way of work organization and, thus, the protection of jobs.

In case the employer defined shorter full-time working time until 31 December 2011, the duration of the working time reduced in such a manner may be used – on the basis of the parties' agreement – for the purpose of increasing the working time in the period from this Act's entry into force and 31 December 2011, where all of the following conditions are met:

- The total amount of weekly working hours may not exceed 44 hours.

- In 2010-2011, the duration of the working hours of an employee may in total be increased by the same number of hours by which the employee's working time was decreased in total in 2009-2010, but by no more than a maximum 204 hours per year (4 hours x 52 weeks = 204 hours).

Furthermore, the duration of use shall not depend on how long the shorter full-time working hours were applicable. Consequently, the employer may freely distribute – even in a period of two years – the hours "gained" thus from the shorter working time previously applied. The employer is free to decide whether to increase the employee's weekly working hours by one hour, two, three or four hours per week.

Employees working more than forty hours per week – due to the reallocation of working time – enjoy protection against the termination of employment by the employer. This means that the employer shall not notify such employees of ordinary dismissal for reasons in connection with the employer's operations or of its decision on collective redundancies or give them a notification of ordinary dismissal until 31 December 2011.

Shorter full-time working arrangements differs from part-time work inasmuch as it does not affect the personal basic pay of employees as it is defined in the employment contract. Employees employed under a shorter full-time working arrangement continue to be entitled to the personal basic pay defined in their employment contract. The same provision applies for longer full-time work. The employee's personal basic wage remains unchanged even if an employer calculates longer full-time working hours for 2010-2011.

Further provisions to be applied in the case of the increase of working hours are as follows:

Obviously, the rules of scheduling working hours continue to apply, that is, daily working hours shall not exceed 12 hours or, in the case of on-call duty, 24 hours (on the basis of Section 119 of the former Labour Code). In such cases, employees may only be instructed to work overtime may only with respect extra hours above the longer weekly working hours (maximum 44 hours per week), as the general restriction which limits the maximum weekly bank of hours to 48 hours continues to apply strictly.

With effect from 1 August 2011, Section 8 of Act CV of 2011 on amending laws on certain labour matters and other related matters for harmonization of laws (hereafter: Módtv.) amended Section 117/C of the Labour Code as follows:

"117/C. § (1) In case the shorter full-time working hours defined on the basis of Para. (2) of Section 117/B equal 36 hours per week, the employer and the employee – on the basis of the provisions of Para. (2) – may conclude a written agreement for a fixed duration of up to one year on longer working hours to apply before 31 December 2011.

(2) If the conditions set forth in Para. (1) are fulfilled, the duration of working hours may be lengthened with a view to the difference between the duration of full-time working hours (as specified in Para. (1) of Section 117/B) and the duration of shorter full-time working hours (as specified in Para. (1)) – provided that the maximum period on the basis of which this difference is calculated shall be that between the date when the shorter full-time working hours were set and the effective date of the agreement on longer working hours – provided that the weekly full-time working hours may not exceed forty-four hours. The working hours may be lengthened as of the first day of the third month after the expiry of the shorter working hours at the latest.
(3) During the term of the agreement on longer working hours, the employer shall not notify the employee of ordinary termination of the employment as specified in Para. (1) of Section 94/E, if the full-time working hours of the employee (as defined under this Section) is longer than forty hours per week.
(4) Any ordinary termination of employment by the employer or any notification effected in violation of the provisions of Section (3) shall be unlawful. After the agreement on lengthening working hours (as per Para. (1)) expires, it becomes unlawful to define longer working hours than the full-time working hours defined in Para. (1) of Section 117/B. In the case of such unlawful employment, the employer shall pay the employee flat-rate compensation at three times the wages paid for the given period (the working hours above the duration specified in Para. (1) of Section 117/B).
(5) The personal basic pay of the employee shall not be affected by the fact that his/her full-time working hours – on the basis of this Section – exceed forty hours per week.

(6) On the basis of the provisions of Para. (5), the hourly wages of the employee remunerated on an hourly basis shall be taken into consideration after reduction on a pro rata basis."

In order to ensure smooth transition with regard to the agreements concluded on the basis the new regulations and the existing regulations, Section 22 of Módtv. specifies the following warranty provisions in Para. (3)-(4) of Section 211 of the former Labour Code:

"211. § (3) Before 1 January 2012, employers and employees who had previously concluded an agreement on the basis of the language of Section 117/C valid until 31 December 2010 shall not conclude a valid agreement as per Section 117/C as set forth in Section 8 of Módtv.
(4) Agreements concluded between employers and employees on the basis of the language of Section 117/C of the present Act, which was valid until 31 December 2010, shall not be subject to the amendments introduced by Section 8 of Módtv."

Having regard to the economic crisis, the Act is intended to finalize the temporary provision until the end of 2011, pursuant to which the working hours unused due to the reduction of regular working time (due to the lack of orders) may be re-allocated over a longer period of time in a manner that guarantees that employees subsequently may work for 44 hours a week for the wages due for 40 working hours. The Act is intended to promote adaptation to the changing economic environment, to enhance flexible organization of work and, thus – indirectly – to protect jobs. To this end, the Act specifies guarantees that protect the employees by ensuring that this option will be strictly of extraordinary nature and shall never become final. One of the guarantees provides that the maximum duration of employment spent in longer working hours shall be one year and if this period is exceeded the employee shall be entitled to receive three times wages the amount of his or her normal wages and that employment spent in increased working hours shall not be effected for a year after the expiry of the former agreement.

With effect from 1 June 2009, Section 8 of 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 amended Para. (1) of Section 118/A of the former Labour Code through the introduction of the four-month bank of hours in a manner which ensures that – on the basis of the duration of daily working hours as per Para. (1)-(3) of Section 117/B of the former Labour Code – the working hours shall be defined within the framework of a bank of hours of maximum four months or of maximum sixteen weeks. To guarantee flexible employment in the framework of Directive 2003/88/EC concerning certain aspects of the organization of working hours, the amendment is aimed at ensuring that the employer, on the basis of its unilateral decision, may order the application of a four-month bank of hours. Pursuant to former legislation, employers could set a three-month bank of hours unilaterally and could define a four-month bank of hours exclusively in the case of seasonal work.

With effect from 1 January 2009, Act LXI of 2008 on the amendment of Act XXXIII of 1992 on the legal status of public servants amended Para. (3)-(8) of Section 119 of the former Labour Code in respect of scheduling working hours as follows:

"119. § (3) The employee's working hours as per normal schedule shall not be longer than
a) twelve hours a day, or twenty-four hours a day in jobs of stand-by nature,
b) forty-eight hours a week, or seventy-two hours a week in jobs of stand-by nature. The daily or weekly working hours as per schedule shall include the duration of overtime.
(4) The daily working hours of employees employed under conditions exposed to harmful effects as defined by law shall not exceed eight hours in respect of night work.
(5) The employee's working hours as per schedule may exceed the daily maximum of twelve hours or – in the case of stand-by nature jobs – the daily maximum of twenty-four hours by no more than one hour, if the date of the switch to winter time falls inside the employee's working hours as per schedule.
(6) In the case an employee is required to work on call, the longest duration of weekly working hours as per Section (3) shall include the time spent in on-call duty. Daily working hours shall include all the hours spent on-call, provided it is impossible to measure overtime performed during on-call duty. On-call duty may not exceed twenty-four hours, including the day on-call duty commences. When ordering an employee to work on-call, the provisions of Section (5) shall be properly applied.
(7) In the case of a bank of hours, the provisions of Sections (3) and (6) shall apply, provided that the weekly working hours as per schedule shall be taken into account in terms of the average bank of hours.
(8) No departure from the provisions of Para. (1) and (3)-(7) shall be considered valid."

The amendment is aimed at clarifying the provisions about imputing on-call duty hours to weekly or daily working hours and the rules governing the length and scheduling of working hours. It clarifies that the Section cited above contains provisions on the scheduling of working hours instead of on its length. Moreover, it clarifies which durations shall be regarded as parts of the ordered duration of daily or weekly working hours (in the latter case – with a view to harmony with the European Community law – the duration of the duty service shall be regarded as a part of the working hours). Since the duration of on-call duty counts only against weekly working hours and since on-call duty is replaced by overtime an employee on call is instructed to perform, there is no justification for maintaining the former regulation.

With effect from 1 January 2010, Section 20 of Act CXXVI of 2009 on amending laws on certain labour matters introduced Para. (9) in Section 119 of the former Labour Code as follows:

In the absence of working time frame, in the case of an employer applying the work schedule stipulated in the decree specified in Para. (5) of Section 125,of the former Labour Code the provisions of point b) of Para. (3) shall not apply to the calendar week when work is performed on Saturday.

On the basis of the authorization as per Para. (5) of Section 125 of the former Labour Code, the Minister responsible for employment policy may decree the changes that occur in the schedule of working hours due to official days off work. Due to the re-allocation of business days specified in such decrees, when employees are obliged to perform work week on a Saturday which qualifies as a business day during a calendar, employees employed in a general schedule of work spend six working days as per their work schedule. Consequently, if the employer does not apply a bank of hours, the as-per-schedule working hours of employees employed in full-time working hours shall be 48 hours during the given calendar week. Therefore, if the employer orders such employees to do overtime during such a week, the working hours of such employees will exceed the upper limit of 48 hours per week as a result of work performed on Saturday. In order to guarantee that – if required – the employer may require overtime lawfully and in compliance with other rules of the Labour Code on working hours and rest periods, the restriction of the upper limit of 48 hours, defined in point b) of Para. (3) of Section 119 (3) of the former Labour Code, shall be lifted on calendar weeks affected by performing work on Saturdays.

The scope of cases of work performance mentioned in Para. (1) of Section 124/A the former Labour Code – work performed during normal working hours on Sunday – was extended by Para. (6) Section 34 of Act LXI of 2008.

With effect from 1 June 2009, Section 10 of Act XXXVIII of 2009 amended Para. (1) of Section 127/A of the former Labour Code on lengthening the duration of overtime in an individual agreement: by omitting the required high-level knowledge, special expertise and experience (key staff) from among the conditions. Accordingly, "the agreement mentioned in Para. (1) may be concluded with an employee whose employer has filed a request for labour under a separate act asking the government employment agency to mediate a worker in a similar position as the employee in question, and the agency was unable to comply with this request." Accordingly, the Act amended Para. (3) of Section 127/A of the former Labour Code as follows: As a precondition for the agreement, the employer must have filed the request referred to in Para. (2) at least thirty days before the effective date of the agreement.

The amendment is justified by the fact that it is not advisable to restrict the category of employees with whom the employer may conclude an agreement on the increase of the duration of irregular work on the basis of individual agreement to the category key staff, as the employer may face severe problems if – regardless of the nature of the tasks of a given position – the employment agency fails to mediate within 30 days a worker to a position that requires "simple" qualification.

From 1 April 2010 to 31 July 2010, Section 117/A of the Labour Code on working hours did not apply to **simplified employment** as defined in Act CLII of 2009 on simplified employment (hereafter: Eftv.). In the case of simplified employment aimed at occasional

work, the employee may be informed of the schedule of work – in departure from Section 119 of the Labour Code – on the first day of uninterrupted work, and, in the absence of a bank of hours, the employer may schedule uneven working hours as per Section 120 of the former Labour Code (points b)-c) of Para. (4) of Section 4 of Act LXXV of 2010). Pursuant to Eftv., employment may be established in a simplified manner (simplified employment) by an employer who is a natural person for the purpose of performing nothing else but household chores, by a priority public utility organization acting as employer for the purpose of performing seasonal work in the agriculture or in tourism, or for the purpose of performing occasional work (Para. (1) Section 1).

Act LXXV of 2010 on simplified employment procedures (hereafter: Efo.) entered into force on 1 August 2010 and replaced Eftv. Accordingly, employment may be established in a simplified manner (simplified employment) for the purpose of performing seasonal work in agriculture or in tourism or occasional work (Para. (1) of Section 1). In the case of simplified employment, the Efo. and Eftv. contain similar provisions on the exclusion of certain provisions of the former Labour Code.

With the entry into force of the Act I of 2012 on the Labour Code (hereafter: Labour Code) – with effect from 1 July 2012 – the provisions of Para. (4)-(5) of Section 97 and 101 of the former Labour Code shall not be applied in the case of simplified employment or casual work.

By using the derogations provided for in paragraph 5 of Article 17 of the Working Time Directive in the health sector, the working hours of assistant doctors and assistant dentists were not allowed to exceed weekly 56 hours from 1 August 2007 until 31 July 2009 at the latest, and weekly 52 hours from 1 August 2009 until 31 July 2011 at the latest. The possibility for derogation from the general working hours of 48 hours as described above existed until 31 July 2011. In the case of assistants, the detailed conditions on the order of work exceeding 48 hours per week have been established in a decree by the minister responsible for health.

I. The new Labour Code

The new Labour Code systematically re-regulated the rules on working hours and rest periods. Chapter XI on working hours and rest periods of the Labour Code consists of the following titles:

- 46. Definitions;
- 47. Daily working time;
- 48. Bank of hours;
- 49. Procedure in the event of the termination of employment prior to expiry of the bank of hours;
- 50. Work schedule;
- 51. Scheduling working time on Sundays or public holidays;
- 52. Rest breaks;
- 53. Daily rest period;
- 54. Weekly rest day;
- 55. Weekly rest period;
- 56. Overtime hours;
- 57. On-call and stand-by duty;

– 58. Specific provisions relating to certain employee groups;
– 59-61. The titles "Vacation and allocation of vacation time" and "Sick leave" came into force on 1 January 2013;
– 62. Maternity leave, leave of absence without pay;
– 63. Records of working time and rest period;
– 64. Derogation from the agreement.

The governing concepts of the Labour Code with regard to the regulations of Para. (1) of Article 2 of the European Social Charter are as follows.

- **Working time**

"86. § (1) Working time: the period extending from the beginning to the end of the hours determined for the performance of work and the duration of any preparatory and concluding activities related to the performance of work.
(2) Preparatory and concluding activities: all duties that an employee is required to fulfil on a customary and regular basis, as part of his or her job responsibilities, without specific instruction.
(3) The following shall not form part of the working time:
a) - breaks during working hours except in jobs of stand-by nature, and
b) time spent commuting from the employee's home or place of residence to the actual place of work and from the place of work to the employee's home or place of residence."

Para. (1) of Section 86 of the Labour Code does not amend the basic content of the former Labour Code. Para. (1) of Section 86 of the Labour Code – similarly to the provisions of point a) of Para. (1) of Section 117 of the former Labour Code – specifies that the duration of preparatory and concluding activities shall count against the concept of working hours. Moreover, it follows from Para. (2) of Section 86 of the Labour Code that preparatory and concluding activities are part of the normal working time and do not qualify as overtime. Para. (3) of Section 86 of the Labour Code defines the periods which do not qualify as working time.

- **Working day**

"87. § (1) Working day: shall mean a calendar day or an uninterrupted period of twenty-four hours defined by the employer, if the beginning and end of the daily working time as scheduled to accommodate the employer's operations fall on different calendar days.
(2) The provisions of Para. (1) shall also apply to determining the weekly day of rest and public holidays, provided that the period between seven o'clock a.m. and ten o'clock p.m. shall be regarded as a weekly day of rest or a public holiday.
(3) Week' shall mean a calendar week or an uninterrupted period of one hundred and sixty-eight hours 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."

Para. (1) of Section 87 of the Labour Code allows for two definitions of the working day with regard to the schedule of working time: as a calendar day (between 0.00 a.m. and 12.00 p.m.) or, on the basis of the employer's unilateral decision, as an uninterrupted period of twenty-four hours. Consequently, Para. (1) of Section 87 allows that – in the case of a carry-over schedule of working time, that is, when the beginning and the end of the working time do not

fall on the same day – an uninterrupted period of 24 hours defined by the employer may qualify as a working day. In such cases, the employer is obliged to define the date when the period of 24 hours commences, which, in practice, is normally the 24 hours following the beginning of the first shift.

However, with regard to the days of rest or public holidays, the restriction specified in Para. (2) of Section 87 of the Labour Code applies, according to which the period from 7.00 a.m. to 10.00 p.m. shall be considered as a day of rest or a public holiday. Thus, the period between 7.00 a.m. and 10.00 p.m. qualifies as a weekly day of rest or a public holiday in any case. Therefore, the employer shall be obliged to define days of rest and public holidays in the schedule of work in a way that they include this period. Thus, for example, a working day may not start between 7.00 a.m. and 10.00 p.m., or may not last for 8 hours between 11.40 p.m. and 8.00 a.m, as in the latter case one hour of the working day would fall on a public holiday.

The definition of working day and day of rest (public holiday) shall uniformly apply to all employees employed in the same schedule of work; different work schedules within the working day shall be ignored as far as the definition is concerned.

- **Definition of daily working time, as well as of daily and weekly working time as per schedule**

"88. §(1) Daily working time:
a) full-time daily working time as determined by the parties or by a rule related to employment relationship or
b) part-time working time as determined by the parties or by a rule related to employment relationship.
(2) Daily working time as per schedule: normal working time ordered for a single working day.
(3) Weekly working time as per schedule: normal working time ordered for a single working week."

Para. (1)-(3) of Section 88 of the Labour Code define daily working time and daily/weekly working time as per schedule, respectively. Furthermore, Section 92 of the Labour Code – which defines the concept and duration of full-time and part-time working hours within the concept of daily working hours – shall also apply.

- **Definition of continuous activity, multiple shifts and seasonal work**

"90.§ An employer operates:
a) continuously, if work on a given calendar day is interrupted for less than six hours or if operation is suspended only for the reasons and for the duration required by the technology employed in any calendar year and
aa) the employer is engaged in the provision of basic public services on a regular basis, or
ab) cannot otherwise be conducted profitably or according to designated purpose due to objective circumstances or reasons arising from the technology adopted;
b) in multiple shifts, if the duration of operations reaches eighty hours a week;
c) seasonal, if work is to be performed in a specific season or a given time or period of the year, regardless of the way work is organized."

Point a) of Section 90 of the Labour Code defines the concept of **continuous operations**. As opposed to the provisions of Para. (2) of Section 118 of the former Labour Code on continuous schedule of work, it defines the concept of "continuous" on the basis of the employer's activity or mode of operation. With regard to other aspects, the provisions of point a) of Section 90 of the Labour Code are basically the same as those of the previous regulation. However, a major difference is that the Labour Code does not explicitly contain the scope of cases specified under point b) of Para. (2) of Section 118 of the former Labour Code.

Compared to pointe) of Para. (1) of Section 117 of the former Labour Code, point b) of Section 90 of the Labour Code contains a completely different definition of operating in multiple **shifts.** While the former definition pertained to the concept of "work scheduled in shifts", the new definition is simpler and allows the employer to utilize working hours more flexibly and efficiently. Point b) of Section 90 of the Labour Code regulates the concept of "shift" exclusively in terms of the organization of work. Accordingly, for the purposes of this Section, "shift" refers to a group or groups of employees with whom the employee performs the operations of a given working day. Operating in multiple shifts may not occur unless the weekly duration of the employer's operations exceeds eighty hours. That is, the average daily duration of the employers operations calculated on the basis of the employer's weekly activity (operation) must surpass 11.4 hours (11 hours and 24 minutes).

Compared to the definition set forth in point j) of Para. (1) of Section 117 of the former Labour Code, the definition of "seasonal work" changed considerably. The regulation no longer specifies that the work to be performed must be related to "the nature of the goods produced or the service provided", which allows a more flexible interpretation of the concept "seasonal". For the purposes of ascertaining that the activity is indeed seasonal and disregarding the organization of work, it is essential to see whether the need to do a job arises from an objective reason. Objective reasons are external conditions which determine the employer's operation in a compelling manner independent of the employer: the given activity may be performed exclusively in a given period, e.g. in the agricultural sector, in the construction sector, in the catering sector, the operation of open-air swimming pools and ice rinks, the preparation of the annual balance sheets of economic organizations, etc. However, the characteristics of seasonal work may not be extended to other periods: they apply exclusively to the given period when the seasonal work is actually performed.

- **Definition of stand-by job**

"91.§ A stand-by job shall mean where:
a) based on a longer period, the employee is at the employer's disposal without actually performing work during at least one third of the normal working hours due to the nature of the job, or
b)in light of job characteristics and working conditions, the work performed is significantly less strenuous and less demanding for the employee than commonly required for a regular job."

The Labour Code modifies the definition of stand-by jobs if compared to that set forth in point k) of Para. (1) of Section 117 of the former Labour Code. The principal criterion of the new definition is not the fact that the employee may rest in one-third of his or her working time but the fact that he or she is obliged to be at the employer's disposal and to be in a condition which enables him or her to perform the employer's orders.

- **Length of daily work**

With regard to the **daily working time,** the Labour Code specifies the provisions:

"92. § (1) The daily working time in full-time jobs is eight hours (regular daily working time).
(2) 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 (longer daily working hours).
(3) For the purposes of Para. (2), 'owner' shall mean any member of the business association holding more than twenty-five per cent of the votes in the company's decision-making body.
(4) Regular daily working time may be reduced in full-time jobs pursuant to a rule governing contracts of employment or to an agreement between the parties.
(5) The daily working time applicable to a specific full-time job may be reduced by agreement of the parties (part-time work)."

Section 92 of the Labour Code clarifies the concepts of regular daily working time, shorter full-time daily working time and part-time working hours.

The Labour Code regulates call for work – an atypical legal relationship and flexible form of employment – as a special case of part-time employment. Pursuant to Para. (1) of Section 193of the Labour Code, employees employed under an employment agreement on a part-time basis for up to six hours a day shall fulfil their duties in accordance with the deadlines of the duties they are responsible for. The duration of the bank of hours may not exceed four months in the case of on-call duty. The employer shall notify the employee of the time of on-call duty at least three days in advance (Para. (2) of Section 193 of the Labour Code). In this respect, the application of a bank of hours allows the employer to define working time to be completed by the employee on the basis of a longer duration (para (1) of Section 93 of the Labour Code). In such cases, employees are obliged to work their daily hours on average during a longer period defined by the employer rather than on a day by day basis, which promotes the flexible performance of work defined by the deadlines attached to the duties.

- **Bank of working hours**

The bank of hours is regulated by the following rules:

"93. § (1) The employer may also define the working time of an employee in terms of a 'bank' of working hours.
(2) The working hours to be completed within the framework of a bank of hours shall be set based on the duration of the bank of hours, daily working time and the regular work schedule. In this context public holidays falling on working days according to the regular work schedule shall be ignored.
(3) In determining the working time according to Para. (2) the period of absence shall be ignored, or shall be taken into account as the working time defined by the schedule for the given working day. In the absence of a work schedule the duration of leave shall be calculated based on the daily working time, whether ignored or taken into consideration.
(4) The initial and final dates of the bank of hours shall be determined in writing and shall be published."

The Labour Code regulates the legal institution of a bank of working hours in consideration of the practical experience based on the provisions of 2003/88/EC on the reference period and on the rules of the former Labour Code. Section 93 of the Labour Code defines the rules pertaining to the definition of the working time to be completed within a bank of hours. Section 94 of the Labour Code regulates the duration of the reference period on the basis of 4, 6 and 12 months as specified below:

"94. § (1) The maximum duration of working time banking is four months or sixteen weeks.
(2) The maximum duration of a bank of working hours is six months or twenty-six weeks in the case of employees:
a) of continuous operations;
b) working in multiple shifts; and
c) employed to do seasonal work;
d) working in stand-by jobs; and
e) in jobs defined in Para. (4) of Section 135.
(3) The maximum duration of working time banking fixed in the collective agreement is twelve months or fifty-two weeks if justified by technical reasons or reasons related to work organization.
(4) The termination or cancellation of the collective agreement shall not affect employment within the framework of a bank of working hours already in effect."

Accordingly, a bank of hours may last:
a) up to 4 months (16 weeks) on the basis of the employer's unilateral decision;
b) maximum 6 months (26 weeks) on the basis of the employer's unilateral decision if the employee is employed
i. in the framework of continuous activities;
ii. in the framework of multiple shifts;
iii. in the framework of seasonal activities;
iv. in a stand-by job;
v. in civil aviation as a pilot, flight attendant, aviation engineer or to provide ground services to passengers and vehicles, or to participate in or to directly support the provision of air navigation services;
vi. in travel-intensive jobs in the domestic or international carriage of passengers and goods by road;
vii. vii. in passenger transportation by road in scheduled local services and scheduled services between localities on road sections of the length of less than fifty kilometres and employees responsible for maintaining smooth traffic conditions;
viii. in passenger transportation by rail and cargo transportation by rail and employees responsible for maintaining smooth traffic conditions;
ix. in ports.
c) up to 12 months (52 weeks) on the basis of the provisions of a collective agreement, if
i. warranted by technical circumstances, or
ii. warranted by organizational circumstances.

Sections 96-100 of the Labour Code regulate the scheduling of working hours as follows:

"96. § (1) The rules relating to work schedules (working arrangements) shall be laid down by the employer.

(2) The working arrangement is flexible when the employer grants written permission to the employee to schedule at least half of his/her daily working hours in light of the unique characteristics of the job and with a view to organizing work independently.
(3) In the case of flexible working arrangements:
a) Sections 93–112, and
b) points a)-b) of Para. (1) of Section 134
shall not apply, with the exception of this Para..
(4) In connection with employment referred to in Section 53 the working arrangements applicable to the place of work shall apply.

97. § (1) Employers shall schedule work with a view to occupational safety and health requirements and the nature of the job.
(2) Work shall be scheduled for five days a week, from Monday to Friday (general work schedule).
(3) When a bank of hours or a settlement period is used, working hours may be determined – in accordance with Sections 101–102 – unevenly for each day of the week or for certain days only (uneven work schedule).
(4) Work shall be scheduled for at least a week and shall be communicated at least seven days in advance in writing. Failing that, the most recent work schedule prevails.
(5) The employer may alter the work schedule for a given day upon the occurrence of unforeseen circumstances in its business or financial affairs, at least four days in advance.

98. § (1) If a bank of hours is not used, work may also be scheduled by requiring the employee to complete the scheduled weekly working hours calculated on the basis of daily working hours and the normal work schedule over a longer period determined the employer, which begins with the given week (settlement period).
(2) The duration of the settlement period shall be determined with reference to the provisions of Section 94, as applicable.
(3) The settlement period shall also be subject to Para. (3)–(4) of Section 93 and Section 95, as applicable.

99. § (1) The scheduled daily working time of an employee may not be less than four hours, with the exception of part-time work.
(2) According to the work schedule:
a) the daily working time of employees shall not exceed twelve hours;
b) the weekly working time of employees shall not exceed forty-eight hours.
(3) On the basis of the a written agreement concluded with employees employed as per Para. (2) of Section 92 – the scheduled working hours of the employee may be
a) no more than twenty-four hours a day,
b) no more than seventy-two hours a week.
Employees may terminate such an agreement on the last day of the calendar month or on the ultimate day of a bank of hours, when a bank of hours is in place, upon giving fifteen days' notice.
(4) An employee's daily and weekly working time as per schedule may longer than that set forth in Para. (2)-(3) by up to one hour if the beginning of winter time falls on a working hour as per schedule.
(5) The duration of the employee's
a) daily working time as per schedule shall include the duration of overtime defined in point a) of Section 107,

b) weekly working time as per schedule shall include the duration of overtime defined in Section 107.

(6) Any time spent on on-call duty shall be included in full in the employee's scheduled daily working hours if the actual duration of work cannot be measured.

(7) If an uneven schedule of work is used, point b) of Para. (2) and (3) shall apply, provided that scheduled weekly working time shall be taken into consideration on average.

(8) When an employer uses a schedule of work described in Para. (5) of Section 102 rather than a bank of hours, the provisions of point b) of Para. (2) and (3) shall not apply to calendar weeks when work is performed on Saturdays.

100. § On the basis of the parties' agreement, the employer may also schedule the daily working time in maximum two instalments (divided daily working time). There shall be a minimum rest period of two hours between the periods of daily working time as per schedule."

The content of Para. (1) of Section 96 of the Labour Code is identical with that of Para. (1) Section 118 of the former Labour Code inasmuch as the schedule of work shall be established by the employer. Schedule of work continues to be a most important legal institution of the organization of working time. Basically, it means that the employer may schedule an employee's working hours in line with the rules set forth in the schedule of work.

The Labour Code defines, among others, the concept of a regular schedule of work (Para. (2) of Section 97 of the Labour Code); this definition serves as a basis for all rules on calculations related to scheduling working time. For example, the definition of the working time to be completed within the framework of the bank of hours is based on this.

The schedule of work is normative while working arrangements are actual measures on the part of the employer. Before implementing a schedule of work, the employer is obliged to consult the works council about the draft schedule of work (point j) of Para. (2) of Section 264 of the Labour Code). In the case of employment forms other than employment with a contract as per Section 53 of the Labour Code, the schedule of work as at the place of work shall apply to the employee.

The employer is entitled to schedule work within the framework provided by the Labour Code. A collective agreement or an employment contract may also restrict the employer's exercise of such rights. Falling in line with the former regulation, the employer may schedule working time with a view to – above all – the requirement of the healthy and safe performance of work, as well as with regard to the nature of the job.

Para. (3) of Section 97 of the Labour Code specifies the conditions of uneven schedules of working time. Moreover, this provision means that in case the employer refrains from prescribing the use of a bank of hours or from introducing a settlement period, employees may be employed exclusively in general schedules of work. In practice, there are two typical forms of the uneven scheduling of working time: the employer schedules the daily working time to all days of the week, or schedules working time unevenly, to the individual working days so that the working time to be completed on a day differs from daily working time.

Primarily, the schedule of work is fixed, that is, the right to schedule work is reserved for the employer. Moreover, Para. (2) Section 96 of the Labour Code regulates flexible schedules of work. The employer may delegate its right to schedule work only with a view to the specific nature of the given position: the right of scheduling working time may be delegated if the nature of the position and the characteristics of the job actually enable the employee to

organize his or her work independently. Flexi-time arrangement may be applied in the case of employees who can perform work processes at a higher level of independence and, thus, can set the date of delivery. In the case of the partial delegation, the employee may decide how to use working time within the framework defined by the employer.

A modification of the previous regulation on the communication of the work schedule to employees allows the employer to alter a schedule which has been communicated to the employee earlier. Pursuant to Para. (5) of Section 97 of the Labour Code, the employer may modify the schedule of work relating to a given day at least four days in advance if an unforeseeable circumstance emerges in its operations or course of business. Thus the employer may organize work more efficiently as it may avoid ordering overtime or the application of the rules pertaining to idle time. However, in case the conditions for altering the schedule of work are not met – for instance, work schedule modifications within less than four days or no "unforeseeable condition" exists – unilateral modification would trigger the application of the rules governing overtime or idle time.

Under the legal regulation of the Act LXXXIV of 2003 on certain aspects of healthcare activities (Eütev.), workers employed in the health sector shall continue to be notified in writing at least one month ahead and at least one month in advance regarding the work schedule, including the healthcare sector stand-by and on-call duty schedules, unless otherwise specified in the collective agreement.

Section 98 of the new Labour Code introduced the institution of the settlement period, thus creating the opportunity for the employee to credit his or her overtime in a given period or his or her completion of a shorter than full-time working hours in a given period. The reference for the settlement period is the weekly working time defined on the basis of the daily working time and the regular schedule of work. Another feature of the settlement period is that the employee is obliged to complete the weekly working time during a longer period of time starting with the given week. The settlement period differs from the bank of hours and restricts the possibility for using uneven work schedules or aggregating weekly days of rest. Another difference between the settlement period and the bank of hours is that while the banks of hours are subsequent and at a time only one bank of hours applies to an employee, settlement periods are based on each other and a new settlement period is opened for the purpose of the performance of each weekly working time period. An advantage of the settlement period is that the same period of time is available for the performance of each weekly working time period. The settlement period starts with the week which serves as a basis for the definition of the working time to be completed and its duration is defined on the basis of the rules pertaining to the duration of the bank of hours (that is, the duration of a settlement period may be 4, 6 or 12 months).

Depending on the various forms of scheduling working time, Section 99 of the Labour Code contains various regulations on the maximum length of full-time daily and weekly working time. A modification of the former regulation is that an employee employed to do a stand-by job may terminate the agreement on longer working hours on the last day of the calendar month and may not suffer a disadvantage on the account of such termination (see Para. (3) of Section 99 of the Labour Code).

According to the general rules, the employer schedules daily working time on a given working day on a continuous basis (undivided working time). Section 100 of the Labour Code – similarly to the former regulation – allows for the application of divided working time under an agreement concluded with the employee. A modification of the former regulation also

allows the employer to apply divided working time without restriction to groups of employees referred to in Sections 113-114 of the Labour Code under an agreement between the parties.

- **Breaks during work**

The rules pertaining to breaks during work are as follows:

103. § (1) In case scheduled daily working time or the overtime defined in point a) of Section 10,
a) exceeds six hours, a twenty-minute break shall be provided for the employee during the working time,
b) exceeds nine hours, an additional twenty-five-minute break
shall be ensured for the employee.
(2) Scheduled daily working hours shall include overtime as defined in point a) of Section 107.
(3) Agreements between the parties or collective agreements may ensure no more than a break of sixty minutes during work.
(4) Breaks during work shall be granted by interrupting working activity.
(5) Breaks during work shall be given after at least three and maximum six hours of work.
(6) The employer shall also be entitled to grant breaks during work in several instalments. If that occurs, the employer may depart from the provisions of Para. (5), but the duration of the break provided in instalments as per Para. (5) shall last at least twenty minutes.

Section 103 of the Labour Code contains comprehensive new regulations on breaks granted during work. In conformity with the former regulation, employees shall be allowed to go on breaks during work so as to rest, eat and to meet other personal needs. It is a legal obligation of the employer to grant breaks during work.

Section 103 of the Labour Code serves the transposition of Directive 2003/88/EC concerning certain aspects of the organization of working time. It is aimed at ensuring that breaks during the working time serve the employees' rest during work in harmony with Article 4 of Directive 2003/88/EC. Para (1) of Section 103 of the Labour Code defines the legal minimum of the duration of breaks during the working time, that is, of breaks that must be granted regardless of the given job, production technology, etc.

The breaks during the working time shall not be included in the working time, with the exception of stand-by nature jobs where breaks during the working time are granted during and as part of the working time. In such cases, with regard to remuneration and the calculation of working time, the breaks during the working time qualify as performance of work. Collective agreements or employment contracts may depart from this provision and prescribe that breaks during the working time must be granted as working time. The employer is entitled to grant breaks during the working time as parts of the working time in a unilateral manner as well.

Para. (5) of Section 103 of the Labour Code specifies that breaks of rest shall be provided in the period between the third and the sixth hour of work. Consequently, it would contradict the purpose of breaks of rest if the employer provided such breaks at the beginning or at the end of the work.

Para. (5) of Section 103 of the Labour Code applies to breaks of rest employees are entitled to on the basis of work performed for more than six hours. Departure from Para. (5) of Section

103 is possible in the framework laid out in Para. (6) of Section 103 of the Labour Code. This allows employers to provide breaks of rest in several portions even in departure from the provisions of Para. (5) of Section 103 of the Labour Code, but exclusively on condition that a twenty-minute uninterrupted break must be given in the period between the fourth and seventh hour of work. Breaks of rest may be provided in several instalments if the employer – on the basis of the parties' agreement or a provision of the collective agreement – provides longer breaks of rest than the duration defined by law. This is the case if, for instance, on a given day an employee is entitled to a break which is longer than twenty minutes due to the fact that he works for more than nine hours that day and, as a result is entitled to a further break of rest.

Point f) of Para. (2) of Section 135 specifies that collective agreements may depart from Section 103 of the Labour Code exclusively in the employee's favour. Such departures include the case when the collective agreement requires – in contrast with the provisions of the Code – that breaks of rest should be provided as part of the working time, especially in cases where, due to the nature of the given position, there are several periods of time when the employee does not perform actual work. At the same time, the reduction of the duration of such breaks – whose duration is defined in Para. (1) of Section 103 of the Labour Code – in itself would, for instance, be an adverse departure for the employee in the light of Article 4 of the Directive. Therefore, such a departure – even if introduced with the employee's consent – would be a departure that is not allowed by the Labour Code (cf. Para. (1)-(2) of Section 43 of the Labour Code).

Employment relationships with public employers are subject also to Section point b) of Para. (2) of 205, which specifies that no departure from Section 86 (3) of the Labour Code is possible. Pursuant to point a) of Para. (3) of Section 86 of the Labour Code, breaks of rest shall not be part of the working time, except in the case of stand-by jobs. As regards employment by public employers, breaks of rest do not form part of the working time, and such breaks shall in any case be provided by interrupting work. Stand-by jobs are an exception from this provision. Neither agreements with the employee nor collective agreements may include breaks of rest in the working time.

- **Extraordinary work**

Extraordinary work is regulated as follows:

"107. § Extraordinary work means hours of work
a) outside the regular schedule of work,
b) over and above the bank of hours,
c) in excess of the weekly working hours that serve as the basis of a settlement period, if any, or
d) spent in on-call duty.
108. § (1) Extraordinary work shall be ordered in writing, whenever an employee so requests.
(2) Employees may be required to do overtime when necessary in the interest of preventing or eliminating the consequences of accidents, natural disasters, serious damage or direct and serious threats to health or the environment.
(3) Ordering overtime on public holidays is limited to
a) employees who may also be employed to work normal hours on such days, or
b) the case referred to in Para. (2).

109. § (1) In the case of full-time work, employees may be required to work two hundred and fifty hours of overtime during a calendar year.

(2) The provisions of Para. (1) shall be applied pro rata if employment

a) commences in the course of a year,

b) is for a definite term, or

c) is established on a part-time basis."

As opposed to former regulation, the Labour Code – instead of defining irregular work – contains provisions on *extraordinary work*, regulating it with reference to normal working hours. Section 107 and Section 108 of the Labour Code define the cases of overtime and the conditions for requiring employees to do overtime, respectively.

The remuneration for *extraordinary work* is regulated by Section 143 of the Labour Code:

"143. § (1) Employees shall be entitled to a fifty per cent wage supplement or to time off work on the basis of a rule governing the employment relationship or an agreement between the parties

a) if required to do extraordinary work in addition to the scheduled daily working time, or

b) in addition to the bank of hours, or

c) in addition to the settlement period.

(2) The time off so awarded may not be less than the overtime required or the duration of the work completed and the employee shall be entitled to the pro rata part of the basic pay against overtime.

(3) In the case of overtime work required on the scheduled weekly day of rest (weekly rest period), the employee shall be entitled to a one hundred per cent wage supplement. The rate of the wage supplement shall be fifty per cent if the employer provides another weekly day of rest (weekly rest period).

(4) In the case of extraordinary work is required on a public holiday, the employee shall be entitled to the wage supplement defined under Para. (3).

(5) The time-off or the weekly day of rest (weekly rest period) under Para. (3) shall be granted in the month after the employee was required to work in extraordinary working time at the latest, or – in the case of an uneven schedule of working time – by the end of the bank of hours or the settlement period at the latest. In the case of work performed in addition to the bank of hours in departure of the above provision, the free time shall be granted by the end of the following bank of hours, at the latest.

(6) Based on the parties' agreement, the time-off shall be granted by the thirty-first day of December following the reference year, at the latest."

To remunerate the extra effort exerted by working overtime, the Labour Code specifies wage supplement, time off, flat-rate payment or, in certain cases, basic pay that includes wage supplement. Employees shall be entitled to extra remuneration above his or her regular wage for working overtime. Employees shall be entitled to all forms of remuneration they would earn when working regular hours. Employees on flexi-time and executives are not entitled to extra remuneration.

- **On-call duty and standby**

On-call duty and standby is regulated by the Labour Code as follows:

"110. § (1) Employees may be obliged to be available beyond their scheduled daily working time.

(2) Employees may be required to be available for more than four hours in the interest of

a) providing continuous services satisfying social and public needs,

b) preventing or eliminating the consequences of accidents, natural disasters, serious damage or threats to health or the environment, or

c) the safe maintenance of the operation of a technology according to its designated purpose.

(3) Employees shall remain fit for reporting for work during the hours of availability and shall perform work as instructed by the employer.

(4) The employer may designate a place where employees have to be available (on-call duty); provided that the employer may otherwise select a place where the employee needs to stay so as to be available without delay if so instructed by the employer (stand-by).

(5) With regard to ordering an employee to be available, provisions of Para. (1) of Section 108 shall apply.

(6) The duration of such availability shall be stated at least one week before, for one month in advance. The employer may depart from the above provision as per Para. (5) of Section 97.

111. § The duration of on-call duty may not exceed twenty-four hours which shall include the duration of any regular hours and overtime scheduled or ordered for the day of the commencement of on-call duty.

112. § (1) The monthly duration of standby may not exceed one hundred and sixty-eight hours which shall be calculated on average if a bank of hours is applied.

(2) Employees may be ordered to perform standby service on the weekly day of rest or during the weekly rest period up to four times a month."

"144. § (1) In the event of standby and on-call duty, employees shall be entitled to a wage supplement of twenty per cent and forty per cent, respectively.

(2) In case employees on standby or on-call duty perform work, they shall be entitled to wage supplement as per Sections 139-143.

(3) In the case of on-call duty, if the duration of the work cannot be measured – in departure from Para. (1)-(2) – the amount of wage supplement shall be fifty percent.

145 (1) The parties may determine a basic wage that also includes the wage supplement determined under Sections 140-142.

(2) The employment contract between parties may specify monthly flat-rate remuneration which includes the remuneration for the performance of work and the wage supplement

a) instead of a wage supplement

b) in the case of standby or on-call duty."

Sections 110-112 of the Labour Code specify the regulations on on-call duty and standby. In case of on-call duty, the employer may designate a place for the employee to stay. Pursuant to point d) of Section 107 of the Labour Code, the entire duration of on-call duty qualifies as overtime, and, pursuant to point b) of Para. (5) of Section 99 of the Labour Code, it is a part of the weekly working time as per schedule. The duration of on-call duty is regulated by Section 111 of the Labour Code. The employee is entitled to a 40% wage supplement for the duration of on-call duty. In case work performance is ordered, the employee shall be entitled to receive – instead of the supplement for on-call duty – remuneration for the duration of work as per the rules pertaining to work performed in working time other than specified by the schedule of work.

In case standby is ordered, the employee is entitled to select a place to stand by at which enables him or her to be available for the purpose of work performance without delay if so instructed by the employer. The employee shall be entitled to a 20% wage supplement for the duration of stand-by. In case work is performed, the remuneration shall be defined as per the rules pertaining to work performed in working time other than specified in the schedule of work.

- **Specific provisions with regard to the working time and rest periods**

"113. § (1) The rules relating to working time and rest periods shall apply subject to the differences set forth in Para. (2)-(4)

a) as of the initial diagnosis of the employee's pregnancy until the child completes the age of three years,

b) until the child completes the age of three years in the case of an employee raising his or her child alone, and

c) in the case of health hazards as defined in the rules pertaining to the employment relationship.

(2) In the cases referred to in Para. (1),

a) an uneven schedule of working time is only permitted with the employee's consent,

b) weekly days of rest shall not be distributed unevenly,

b) overtime or stand-by service shall not be ordered.

(3) Night work shall not be ordered in the case of the employees referred to in Sections (1)a)-b) .

(4) In the case referred to in point c) of Para. (1), the employee's daily working time as per schedule shall not exceed eight hours in the case of night work.

(5) An employee raising his or her child alone may be required to work in irregular working time or in the framework of stand-by only with his or her consent as from the time his or her child reaches three years of age up to the time when the child reaches four years of age, with the exceptions defined in Para. (2) of Section 108.

114. § (1) No night work or overtime shall be ordered in the case of young employees.

(2) A young employee's daily working time may be maximum eight hours, and the working hours completed as part of several employment relationships shall be aggregated.

(3) In the case of young employees,

a) a maximum one-week bank of hours may be ordered,

b) in the case of a daily working time as per schedule exceeding four and a half hours, a break of a minimum duration of thirty minutes, in the case of a daily working time as per schedule exceeding six hours, a break of a minimum duration of forty-five minutes shall be given during the working time,

c) a daily rest period of a minimum duration of twelve hours shall be provided.

(4) For young employees, the provisions of para (2) of Section 105 and Para. (3) of section 106 shall not apply."

The possibility of a different agreement between the parties regarding the chapter on working time and rest periods is regulated by Section 135 of the Labour Code as follows:

"135. § (1) The parties' agreement or a collective agreement may only depart from the provisions of the following sections exclusively in the employee's favour:

a) Para. (5) of Section 122,

b) Para. (1)-(2) and (4) of Section 127,

c) Section 134.

(2) A collective agreement may depart from the provisions set forth
a) in Sections 86-93,
b) in Section 95,
c) in Para. (2)-(3) of Section 96,
d) in Para. (1) of Section 97,
e) in Section 99,
f) in Sections 101-108,
g) in Para. (2) of Section 109,
g) in Section 111,
i) in Sections 113-121,
j) in Sections 124-126,
g) in Para. (5) of Section 127,
l) in Sections 128-133.
(3) On the basis of a provision of the collective agreement, maximum three hundred hours of overtime may be ordered per year.
(4) The parties' written agreement and a collective agreement may depart from the provisions of Para. (2) of Section 99 and Sections 101-109, respectively, with regard to
a) employees working in civil aviation as pilots, flight attendants, aviation engineers and employees performing services to aircrafts, participating in or directly supporting air navigation service provision,
b) employees travelling actively in local and international passenger transportation by road and cargo haulage,
c) employees working in passenger transportation by road in scheduled local services and scheduled services between localities on road sections of the length of less than fifty kilometres and employees responsible for maintaining smooth traffic conditions,
d) employees working in passenger transportation by rail and cargo transportation by rail, and employees responsible for maintaining smooth traffic conditions,
e) employees working in ports.
(5) The conditions of the agreement specified in Para. (4) are as follows:
a) the working time as per schedule may exceed the duration defined in Para. (2) of Section 99 by maximum twelve hours,
b) employees may terminate such an agreement on the last day of the calendar month or on the ultimate day of a bank of hours, when a bank of hours is in place, upon giving fifteen days' notice.
(6) The collective agreement may specify divided working time for employees employed as per Para. (4).''

The Labour Code introduced basic changes with regard to the parties' liberty to conclude agreements. A difference with regard to the former Labour Code is that the employee and the employer may conclude a comprehensive agreement on the regulation of working conditions. To assess the possibilities for departure – besides Section 135 of the Labour Code – especially Sections 43 and 277 shall be taken into consideration:

''43. § (1) Unless otherwise provided elsewhere in legislation, an employment contract may depart from the provisions set forth in Part Two and from the rules relating to employment in the employee's favour.
(2) Any departure shall be assessed based on a comparison of interrelated provisions.''

''277. § (1) A collective agreement may regulate
a) the rights or obligations arising from or related to the employment relationship,

b) the conduct of the parties related to the conclusion, performance and termination of the collective agreement, to the exercise of their rights and to their compliance with their obligations.

(2) Unless provided otherwise, a collective agreement may depart from the provisions set forth in Parts Two and Three.

(3) A collective agreement

a) may not depart from the provisions of Chapters XIX and XX, and

b) may not restrict the provisions of Sections 271-272.

(4) Unless provided otherwise, a collective agreement of a more limited scope may only depart from the general provisions in the employee's favour.

(5) Any departure in the employee's favour shall be assessed based on a comparison of interrelated provisions."

The lawfulness of the mode and degree of such departure shall be assessed from case to case taking the actual circumstances into account. On the basis of the general provisions on legal interpretation, the provisions of the Act shall be construed in harmony with the laws of Hungary and the European Union (Para. (1) of Section 5 of the Labour Code). This means that the lawfulness of departure from a given provisions shall in certain cases be assessed in conformity with the other provisions of the new Labour Code, with existing legislation and with the European directives as well.

In the reporting period, based on point f) of Para. (1) of Section 3 of Act LXXV of 1996 on labour inspection (hereafter: Met.) labour inspection covered compliance with the provisions of the applicable laws or collective agreements concerning working time, resting time, extraordinary work and leave.

With effect from 1 July 2012, Para. (6) of Section 39 of 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 (hereafter: Mth.) amended point f) of Para. (1) of Section 3 of the Met to the effect that the scope of labour inspection covers compliance with the provisions regulating working time and rest periods in a contract of employment. However, this amendment does not affect practice, as labour inspection may audit compliance with all the rules governing working time and rest periods.

B. Provisions on public servants

1. Amendment of provisions on part-time work

With effect from 1 January 2010, Act CXXVI of 2009 on amending laws on certain labour matters introduced a new Section 23/B in the Act XXXIII of 1992 on the legal status of public servants (hereafter: Kjt.) The amendment is aimed at creating the opportunity – with regard to the reforms of child care benefits – for parents employed in the public sector returning to their previous workplace – after receiving child care benefit or after unpaid leave – to decide unilaterally to be employed on a part-time basis until their child reaches three years of age.

On a written request by a full-time public employee, the employer shall provide in the appointment part-time working arrangements of duration of:

a) twenty hours per week,

b) half of the working hours set in the appointment in the case of stand-by jobs,

in case the public employee, upon submitting his or her request, requests unpaid leave as per point a) of Para. (5) of Section 138 of the Labour Code (Para. (1) of Section 23/B).

The employer may only refuse the public employee's request concerning an uneven schedule of working time if such an arrangement would increase the employer's workload related to the organization of work substantially. In the case of such refusal, the employer shall provide a written explanation (Para. (2) of Section 23/B.).

Part-time work shall commence

a) on the day following the expiry of the unpaid leave,

b) on the day following the last day of such ordinary leave in case the public employee must be granted ordinary leave on the basis of Section 134 (3) *b)* of the Labour Code. When applying the provisions of Section *b)* and in the absence of the parties' agreement to the contrary, ordinary leave shall start on the first working day following expiry of unpaid leave. If the parties agree otherwise, ordinary leave shall be started within thirty days after the expiry of unpaid leave (see Para. (3) of Section 23/B).

The application shall be communicated to the employer at least sixty days prior to the expiry of the unpaid leave mentioned in Para (1) of Section 23/B. In the request, the public employee shall inform the employer that:

a) the child for whom the employee was granted the unpaid leave has reached three years of age, and

b) the proposed of work in case he or she wishes to work on the basis of an uneven working schedule (Para. (4) of Section 23/B). In departure from this provision, persons employed as teachers in educational institutions shall communicate their request to the employer during the period of the unpaid leave sixty days prior to the end of the school term or the end of the first semester (see Para. (5) of Section 23/B).

As regards the direct or indirect provision of pecuniary or in kind benefits from the date indicated in Para. (3) of Section 23/B, the pro rata principle shall apply by the force of law in case the eligibility for such remuneration is related to the duration of working time (Para. (6) of Section 23/B).

On the basis of a request as per Para. (1), the employer shall employ the public employee in part time

a) until the date indicated in the request, but

b) up to the date when the childreaches three years of age.

Thereafter, the working time of the public employee shall be readjusted to the arrangement prior to the submission of the request, and his or her remuneration will be calculated on the basis of the pro rata principle (Para. (7) of Section 23/B).

Para. (1)-(7) are not applicable to appointed and acting senior executives and executives (Para. (8) of Section 23/B).

2. Amendments of Kjt. provisions on working time and rest periods

Section 14 of Act LXI of 2008 on the amendment of Act XXXIII of 1992 on the legal status of public servants amended Section 55/A of Kjt. with effect from 1 January 2009 as follows:

55/A. § (1) An appointed senior executive determines his or her own work schedule and the rest periods (leave) as per the provisions of his or her appointment.

(2) If a public employee performs no work during the stand-by period, he or she shall not be entitled to a rest period after a shit spent in stand-by."

In addition, Para. (1) of Section 5 of Act CLXXV of 2010 repealed Para. (1) of Section 55/A with effect from 1 January 2011, and point b) of Para. (3) of Section 11 of Act XXXVIII of 2009 repealed Para. (2) with effect from 1 July 2009.

With effect from 1 January 2009, Section 59 of Kjt. was amended as follows:

"59. § (1) With regard to the legal relationship of public employees, the following provisions of the Labour Code on working time and rest periods (Part Three, Chapter VI) shall not apply: Para. (1) of Section 117/A, Para. (2), point b) of Para. (3) and Para. (4) of Section 117/B,, Section 131, and Para. (4)-(6) of Section 132.

(2)

(3) In departure from Para. (4) of Section 134 of the Labour Code, the employer may authorise leave in more than two (maximum four) instalments even if the employee does not requested so for employees in positions which entitle them to incremental leave, as provided in Para. (3) of Section 57."

Furthermore, point d) of Para. (3) of Section 128 of Módtv. inserted Section 117/C (in addition to Section 131 of the Labour Code) into Para. (1) of Section 59 of Kjt.

With the entry into force of the new Labour Code, the relationship between the provisions of the Labour Code and Kjt. on working time and rest period is regulated by Section 59 of Kjt with effect from 1 July 2012 as follows:

With regard to the legal relationship of public employees the following provisions shall not apply:

a) Section 131 and Para. (4)-(6) of Section 132 of the provisions on working time and rest periods of Act XXII of 1992 on the Labour Code,

b) Para. (4) of Section 92 and Section 135 of the provisions on working time and rest periods of the Labour Code (Chapter XI) (Section 59 of Kjt.).

C. Provisions on public officials

From 1 January 2009 to 29 February 2012, the provisions on working time in public service were regulated by paragraphs 1-6 of Article 39 of Act XXIII of 1992 on public servants (hereinafter*: Ktv.)* and Para (1) and (3) of Section 117, Para (4) of Section 117/A, Para (5) of Section 117/B, Para (2) of Section118, Para (4) and (5) of Section 118/A, Para (1-2) and (4) of Section 119, Sections 120-121, Sections 123-124/A, Para (1), excluding point (b), and Para (2-5) of Section 125, Section 126, Para (1-2) and (6-7) of Section 127, Para (1) of Section 128, and Section 129 of the rules on working time laid down in the old Labour Code applied correspondingly.

The Ktv. has been supplemented by a new Section 14/B of Act CXXVI of 2009 on the amendment of certain acts on labour issues, according to which the employer shall offer, upon request, part-time employment to full-time civil servants (excluding notaries and civil servants in executive positions) taking a leave of absence without pay due to childcare issues after their return to the workplace until the third birthday of their child. The aim of the amendment was to make it possible for civil servants returning to their previous workplaces after their time spent on childcare benefits or a leave of absence without pay to unilaterally

decide to work as a part-time employee until the third birthday of the child, similar to other employees in the public sector (public servants, judges, judicial staff, public prosecutors).

The Ktv. was repealed by Act V of 2012 on transitional, amended and repealed rules related to the Act on public officials and the amendment of certain related acts on 29 February 2012. Act CXCIX of 2011 on public officials (hereinafter referred to as*: Kttv.*) came into effect on 1 March 2012, which abolished the applicability of the former Labour Code as the background legislation, with regard to the legal status of public officials (government officials, civil servants, government administrators, public administrators). Accordingly, certain provisions laid down in the former Labour Code regarding the regulation of working time have been transferred to the Kttv.; however, the transfer has sometimes been done with minor derogations and taking into account the changing rules of the Labour Code, having regard to the special functioning and needs of public service. Essentially, the present regulation was not changed with regard to regulating the length of daily and weekly working hours. Para. (1) of Section 89 of the Kttv. laid down the rules on the daily and weekly working hours and general organisation of work. On this basis, the daily total working hours are 8 hours, while the weekly working hours are 40 hours, from Monday to Thursday, from 8:00 a.m. to 4:30 p.m., and on Friday from 8:00 a.m. to 2:00 p.m. (general work hours). Pursuant to Para. (4) of Section 91 of the Kttv., the working hours of the government official may be determined otherwise than the general work organisation of work by the person exercising the rights of the employer. However, pursuant to Para. (1) of Section 92 of the Kttv., the daily scheduled working time of the government official – excluding part-time work – shall be at least four hours. The upper limit of scheduled working time is laid down in Para (2) of Section 92 of the Kttv., pursuant to which the scheduled working time of a government official shall not exceed 12 hours per day and 48 hours per week. From 1 March 2012, Section 50 of the Kttv. has taken over the rules stipulating the conditions of mandatory part-time work laid down in Section 14/B of the Act on public servants with the same content.

D. Provisions on professional members of the armed forces and Hungarian Defence Forces

Act XLIII of 1996 on the service relationship of professional members of the armed forces (hereinafter: *Hszt*.) contains the following provisions for calculating working hours:

Paragraphs 1-3 of Section 84 of the Hszt.:
"(1) The service time is 40 hours per week.
(2) In case of part-time or full-time on-call duty, a service time longer than the one set out in paragraph (1), but not exceeding 48 hours per week, can be determined.
(3) The service time – taking the weekly duty time into account – can also be determined in cycles lasting for several weeks but at a *maximum* of *four months."*

Paragraph 1 of Section 84/A of the Hszt.:
"(1) Upon written request of professional members working in service time pursuant to Article 84, the superior exercising the rights of the employer allows
a) twenty hours a week,
b) or, in the case of an on-call position, a length of a part-time service time equal to half of the working time stipulated in the letter of appointment,
if professional members of the armed forces take a leave of absence without remuneration pursuant to point (a) of paragraph 1 of Article 96 when submitting the request, and their original positions can be fulfilled in part-time service, due to the nature of the position."

Chapter IX of Act CCV of 2012 on the legal status of Hungarian private soldiers (hereinafter: *Hjt*.) regulates the working time of those subject to the Act.
The person holding the rights of the employer has the right to organise the service time, in the framework of which the schedule of the service time, i.e. the organisation of service, can be determined.
In this respect, three basic types can be distinguished:

- the general organisation of service,
- on-call duty, and
- the organisation of service related to continuous stand-by duty.

The organisation of service related to the service position is determined by the person holding the rights of the employer in a job description within the statutory limits, considering the circumstances laid down in the Act, primarily the nature of the service and the requirement for a healthy and safe service. Although the Act does not state it expressive – as a general rule – the principles of law determining the general requirements for conduct of the parties shall also apply in this case.

The general and special rules related to the daily and weekly service time, the length of the service time cycle and the basic framework of accounting according to the organisation of service are laid down in the Act, and the legal base for split daily service time and the irregular determination of service time is also established by the Act.

The average daily working time is between 8 and 9 hours. The surplus performance is rewarded by allowance, service overtime payment and/or supplementary time off.

The Act states that the related detailed rules are to be determined in the implementing regulation.

The Hjt. classifies a break from work as part of the service time, and provides for its duration and specifies that it is to be given during the service time, as an interruption of it. The general and special legal guarantees related to the length and allocation of the rest period and rest day and the rules for derogation from it have been determined according to the organisation of service.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION; KEY DATA AND STATISTICS

Fulfilled working hours in the national economy, 2009 – 2012

Year	Average fulfilled working hours per month	Fulfilled working hours of full-time employees (1,000 hours)			Fulfilled working hours of full-time blue- and white-collar employees per person (hour/person)		
	hour/person/month	blue-collar	white-collar	total	blue-collar	white-collar	total
2009	144.5	2,190,418	2,083,203	4,273,621	150.3	148.7	149.5
2010	145.8	2,281,301	2,103,385	4,384,686	152.7	149.8	151.3
2011	143.9	2,208,461	2,097,636	4,306,097	152.8	149.6	151.2
2012	144.0	2,215,870	2,054,863	4,270,733	151.1	148.8	150.0

Source: *KSH [Central Statistical Office])*

Number of employees according to the term of their work contracts and gender [thousand persons]

Years	Employment contract for an indefinite term			Employment contract for a definite term			Total number of employees
	men	women	total	men	women	total	
2009	1,574.0	1,456.2	3,030.2	156.1	123.6	279.7	3,309.9
2010	1,541.1	1,455.7	2,996.8	172.9	147.8	320.7	3,317.5
2011	1,582.2	1,470.5	3,052.7	164.9	134.8	299.7	3,352.4
2012	1,603.2	1,498.3	3,101.5	183.4	139.8	323.2	3,424.7

Source: *KSH [Central Statistical Office])*

Total number of employed persons according to full or part-time employment and gender [thousand persons]

Years	Part-time employee			Full-time employee			Total number of employees
	men	women	total	men	women	total	
2009	80.1	130.1	210.2	1,964.8	1,606.9	3,571.7	3,781.9
2010	78.8	141.2	220.0	1,943.8	1,617.4	3,561.2	3,781.2
2011	97.5	161.0	258.5	1,959.8	1,593.6	3,553.5	3,811.9
2012	97.4	173.4	270.8	1,985.0	1,622.1	3,607.1	3,877.9

Years	Regularly works in the evening			Occasionally works in the evening		
	men	women	total	men	women	total
2009	190.9	121.3	312.1	404.7	229.4	634.1
2010	236.8	148.4	385.2	443.7	274.5	718.2
2011	261.5	166.0	427.5	481.1	274.8	755.9
2012	274.8	177.2	452.0	492.0	294.8	786.8

Years	Regularly works at night			Occasionally works at night		
	men	women	total	men	women	total
2009	126.0	57.5	183.5	245.5	110.9	356.4
2010	159.1	76.4	235.5	262.6	127.6	390.2
2011	180.6	86.8	267.4	286.3	135.4	421.7
2012	184.3	88.0	272.3	286.3	135.3	421.6

Years	Regularly works on Saturday			Occasionally works on Saturday		
	men	women	total	men	women	total
2009	233.2	172.7	405.9	628.5	359.5	987.9
2010	253.4	188.0	441.4	663.8	404.9	1,068.7
2011	267.4	196.0	463.4	697.6	404.3	1,101.9
2012	265.6	193.3	458.9	704.1	438.0	1,142.1

Years	Regularly works on Sunday			Occasionally works on Sunday		
	men	women	total	men	women	total
2009	165.1	107.4	272.5	435.0	241.8	676.9
2010	184.5	121.3	305.7	442.8	272.4	715.1
2011	198.3	131.2	329.4	469.6	275.7	745.3
2012	196.9	127.5	324.5	463.9	284.9	748.8

Source: *KSH [Central Statistical Office])*

Certain elements of collective agreements announced in a given year and the number of employers and employees affected

	Private sector								**Public sector**			
	Collective agreement applying to a single employer				*Collective agreement applying to several employers*				*Collective agreement applying to a single employer*		*Collective agreement applying to several employers*	
	Work hours		Special work duty		Work hours		Special work duty		Special work duty		Special work duty	
	employer (number)	affected (person)	employer (number)	affected (person)	employer (number)	affected (person)	employer (number)	affected (person)	employer (number)	affected (person)	employer (number)	affected (person)
2009.	142	156,101	177	168,269	40	17,494	78	30,414	74	26,631	0	0
2010.	145	141,094	173	156,931	29	11,472	29	11,472	74	29,016	0	0
2011	102	138,831	118	137,271	38	6,503	43	13,349	33	10,931	0	0
2012	93	133,033	117	139,377	31	33,796	46	41,151	18	6,004	0	0

Source: *NMH (Hungarian Labour Inspectorate)*

The frequency of regulation on work hours in the private sector and in collective agreements applying to a single employer

Private sector, collective agreement applying to a single employer									
	Data sheets of collective agreement	Use of a working time limit	Several working time limits depending on job categories	Working time limit used for the largest group of employees in case of a working time limit			Regulation on organising the working time of people working in alternating shifts	Regulation on people working in split work schedule	Regulation on people working in continuous shifts
		Applies	Applies	Maximum 4 months	4-6 months	Annual	Applies	Applies	Applies
2009	185	161	79	62	26	19	128	50	76
2010	180	157	66	54	19	27	128	60	34
2011	120	109	50	35	14	22	81	42	11
2012	120	108	48	36	19	22	78	35	0

Source: *NMH (Hungarian Labour Inspectorate)*

The frequency of regulation on extraordinary work duty in the private sector and in collective agreements applying to a single employer

Private sector, collective agreement applying to a single employer						
	Data sheets of collective agreement	Regulation on the order of special work duty	Regulation on the maximum annual amount of special work duty	Maximum annual amount in case of regulation		
		Applies	Applies	< 200 hours	201-300 hours	same as in the Labour Code
2009	185	151	160	13	134	25
2010	180	149	157	9	127	27
2011	120	103	109	6	99	7
2012	120	98	111	5	97	4

Source: *NMH (Hungarian Labour Inspectorate)*

Frequency of regulation on on-call and stand-by duty in the private sector and in collective agreements applying to a single employer

Private sector, collective agreement applying to a single employer								
	Data sheets of collective agreement	Definition of on-call positions	Regulation on the monthly amount of on-call duty that can be ordered – the amount for 168 hours:			the maximum amount of stand-by duty that can be ordered		
		Applies	Less	More	same as in the Labour Code	< 200 hours	201-300 hours	same as in the Labour Code
2009.	185	69	9	33	37	5	21	13
2010	180	63	10	34	34	4	19	14
2011	120	39	7	25	19	5	15	5
2012	120	42	2	24	25	4	12	8

Source: *NMH (Hungarian Labour Inspectorate)*

Private sector, collective agreement concluded by several employers					
	Data sheets of collective agreement	Use of a working time limit	Working time limit used for the largest group of employees in case of a working time limit		
		Applies	Maximum 4 months	4-6 months	Annual
2009	24	22	8	4	4
2010	13	8	5	2	0
2011	9	8	2	2	1
2012	16	12	4	3	0

Source: *NMH (Hungarian Labour Inspectorate)*

The frequency of regulation on work hours in the public sector and in collective agreements applying to a single employer

Public sector, collective agreement applying to a single employer										
	Data sheets of collective agreement	Use of a working time limit	Working time limit used for the largest group of employees in case of a working time limit			Regulation on organising the working time of people working in alternating shifts	Regulation on people working in split work schedule	The maximum annual amount by the regulation of special work duty		
		Applies	< 2 months	2-6 months	6-12 months	Applies	Applies	< 200 hours	> 200 hours	no regulation
2009	92	51	33	11	0	21	17	10	60	16
2010	83	53	32	7	0	34	16	4	67	6
2011	37	22	13	1	0	13	3	6	23	8
2012	20	11	7	2	0	5	1	5	12	3

Source: *NMH (Hungarian Labour Inspectorate)*

Substantive measures of the Labour Inspectorate in relation to working time irregularities

		2009	**2010**	**2011**	**2012**
Infringement of rules on working time	number of measures	1,699	1,679	2,340	3,738
	affected number	20,736	19,570	17,114	21,138
	number of substantive actions	1,089	1,162	1,197	726
	number of warnings	208	51	548	2,228

Source: *NMH (Hungarian Labour Inspectorate)*

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. Employment-related provisions

I. The former Labour Code

In the reporting period, with regard to the regulation on paid public holidays the following legal amendments were made:

With effect from 1 January 2009, Para. (4) of Section 34 of Act LXI of 2008 on the amendment of Act XXXIII of 1992 on the legal status of public servants amended para (1) of Section 125 of the former Labour Code in respect of work performed on public holidays as follows:

"(1) With the exception set out in the second sentence of Para. (1) of Section 127, employees may be required to work on public holidays
a) if the employer runs a continuous schedule of work or operates on public holidays by the nature of its business or the designated purpose of its business,
b) if services provided to a foreign country require work performed on public holidays with information technology tools – by virtue of the nature of the service and regardless of the organization of work –, or
c) in the case of business trips, if the governing legislation of the host location allows ordering work to be performed on public holidays. No deviation from these provisions shall be considered valid."

Cross-border services conducted as part of the globalization process required an amendment of Section 125 of the Labour Code. In the case of certain cross-border services unrelated to public holidays, the former labour code prevented employers from commissioning work on such days. However, cross-border cooperation between companies in a global economy made it necessary to extend the list of cases when work is allowed on public holidays, including, for instance, the business of outsourcing companies that provide services to customers in foreign countries (almost exclusively through IT channels and using IT devices, such as telephones, computers and/or electronic mail). The enactment of this rule was also justified by the need to keep and, possibly, increase the already significant number of outsourcing employers operating in Hungary, as well as the number of employees in this sector.

Moreover, Para. (5) of Section 125 of the former Labour Code was replaced by the following provision:

"(5) The Minister responsible for employment policy is hereby authorized to regulate in a decree the changes due to public holidays in the schedule of working time. Nevertheless, no Sunday shall be declared a working day on account of such changes."

The mandate for ministerial decrees on the rescheduling of work days is provided by the Act in accordance with novel legislation requirements.

II. The new Labour Code

Sections 101-102 of the Labour Code on the rules of scheduling work on Sundays and public holidays set forth the following provisions (invoking Para. (8) of Section 85 of Mth.):

"101. § (1) Regular working time may be scheduled for Sunday for employees
a) employed by employers or in jobs also operational on that day by virtue of their general operations or purpose,
b) employed in the framework of seasonal activities,
c) employed in the framework of continuous activities,
d) employed in the framework multiple shift activities,
e) employed in stand-by jobs,
f) employed on a part-time basis solely on Saturdays and Sundays,
g) in the case of services satisfying social and public needs or cross-border services by virtue of the nature of such service,
h) in the course of performing work abroad, or
i) employed by an employer under the scope of the act on commerce which performs commercial activities, provides services for commerce or provides tourism-related commercial services.
(2) Para. (3) of Section 102 shall duly apply to point a) of Section (1).
(3) If regular working time is scheduled for Sunday for an employee, no regular working time may be scheduled for the same employee for the directly preceding Saturday."

"102. § (1) Public holidays: 1 January, 15 March, Easter Monday, 1 May, Whit Monday, 20 August, 23 October, 1 November and 25-26 December.
(2) Regular working time may be scheduled for public holidays in cases specified in points a)-c) and g)-h) of Para. (1) of Section 101.
(3) An employer or a job qualifies as continuously operational also on public holidays by virtue of its designated purpose if
a) the given activities are pursued on the basis of needs arising from locally developed or generally approved social customs directly related to the public holiday, or
b) operations are necessary in the interest of preventing or eliminating the consequences of accidents, natural disasters, serious damage or direct threats to health or the environment and in the interest of security services.
(4) The rules of scheduling related to public holidays shall duly apply if a public holiday falls on a Sunday as well as in the case of Easter Sunday and Whit Sunday.
(5) The Minister responsible for employment policy is hereby authorized to regulate in a decree the changes due to public holidays in the schedule of working time of employees working in the normal schedule of working time by 31 October of the year proceeding the subject year at the latest. As part of this, no Sunday may be declared a work day and any change shall fall on the same calendar month."

The provisions of Section 101 of the Labour Code differ from previous legislation inasmuch as an uneven schedule of work in itself does not authorise work in regular working hours on Sundays. Sunday work is not regarded as work performed on the weekly day of rest or as working overtime. Pursuant to Section 102 of the Labour Code regular working hours may only be scheduled for public holidays in exceptional cases.

"140. § (1) Employees obliged to work regular hours on Sunday as defined in points d)-e) and i) of para (1) of Section 101 shall be entitled to a fifty per cent wage supplement.
(2) Employees obliged to work regular hours on public holidays shall be entitled to a one hundred per cent wage supplement.
(3) The wage supplement under Para. (2) shall also be due in the case of the performance of work on Easter Sunday or Whit Sunday or on public holidays falling on Sunday."

A condition of entitlement to wage supplement for Sunday work is that the employee is obliged to work on Sunday primarily for reasons related to the organization of work. Employees who perform Sunday work due to objectives reasons (e.g. because their employer operates on the given day due to the designated purpose of its business) are not entitled to a wage supplement for working on Sunday. Former provisions were amended inasmuch as the employee is entitled to receive wage supplement for Sunday work not only for work in regular working time but for overtime work as well.

The remuneration for work performed on public holidays is the wage supplement defined in Para. (2) of Section 140 of the Labour Code instead of the absence fee and extra supplement defined in the former Labour Code. The amount of such wage supplement is 100% and is paid to the employee – who receives his or her wage on the basis of working hours or performance – above his or her regular wage and absence pay.

B. Provisions on public officials

The regulation on breaks from work, laid down in Section 40/A of the Act on public servants (Ktv.) has been taken over by Para. (1) of Section 94 of the Act on public officials (Kttv.) with the same content until 29 February 2012, according to which if the daily working hours exceed six hours, the public official is entitled to a 30-minute daily break from work during the working time, as an interruption of work, and after each additional three hours of work, the public official is entitled to a minimum twenty-minute break from work. Para. (2) of Section 94 of the Kttv. – supplementing the provisions in Section 40/A of the original Ktv. – clarifies that the working hours outside of the work schedule shall be regarded as part of the daily working hours with regard to the allocation of breaks from work. Based on the above, it can be concluded that according to both the Ktv. and the Kttv., the break from work is part of the working time so the public official is entitled to remuneration for its duration.

Pursuant to Para. (2) of Section 93 of the Labour Code, the Day of Public Officials, i..e. 1st of July, has been declared a public holiday for public officials (civil servants, public administrators, government officials, government administrators), similarly to the Day of Civil Servants laid down in Section 71/A of the Ktv. – only the name of the public holiday has been changed – in addition to the other days classified as public holidays by the Labour Code. Until 29 February 2012, pursuant to Para. (3) of Section 40 of the Ktv., public servants were entitled to receive a time off equal to two times the amount of time worked on a public holiday. From 1 March 2012, pursuant to Para. (2) and (6) of Section 98 of the Kttv., a differentiated regulation has been introduced with regard to compensation for the amount of time worked on a public holiday, depending on whether the work is performed during regular or overtime hours. Thus, public officials obliged to work on a public holiday during regular hours shall be entitled to receive time off equal to two times the amount of time worked, while public officials obliged to work on a public holiday during overtime hours shall be entitled to receive time off equal to three times the amount of time worked.

C. Provisions on professional members of the armed forces and Hungarian Defence Forces

Para. (6) of Section 86 of the Act on professional members of the armed forces states that:

"In addition to public holidays laid down in the Labour Code, with regard to the armed forces, a *public holiday is each day stipulated as such in Part Two of this Act including the special rules and, with regard to professional members of the National Tax and Customs Administration of Hungary, each day stipulated as such in the Act on the National Tax and Customs Administration of Hungary. In addition to their remuneration, professional members of the armed forces shall be entitled to receive absentee pay for service provided on a public holiday."*

In accordance with Para 6 of Section 264 of the Act:

"Pursuant to paragraph 6 of Section 86, the public holiday of the *police is 24th of April, i.e. St. George's Day."*

Although both the Labour Code and the Kttv. contain rules on public holidays, the background legislation is not part of the Act, so the specific public holidays regarding the general and defence sectors are laid down in detail in the Act on the legal status of Hungarian private soldiers.
For the Hungarian Defence Forces, the compensation for working on a public holiday is a rest period equal to two times the amount of time worked.

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. Employment-related provisions

I. The former Labour Code

In the reporting period the following legal amendments occurred with regard to the regulation on paid annual leave:

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

With regard to entitlement to leave, as of 1 August 2011, Section 9 of Módtv. amended point c) of para, (2) of Section 130 of the former Labour Code to the effect that the period to be taken into consideration with regard to the unpaid leave for taking care of or nursing a child [Para. (5) of Section 138] was reduced from 1 year to 6 months. Accordingly, leave is granted for the period of the suspension of the employment relationship (for the first six months of the unpaid leave for taking care of or nursing a child [Para. (5) of Section 138].

It was in view of this that Para. (5) of Section 22 of Módtv. specified that the period of time that serves as the basis of entitlement to leave as per point c) of Para. (2) of Section 130 shall apply to unpaid leave started after the entry into of force of Módtv. This regulation, however, entered into force only on 1 December 2011 (point c) of Para. (2) of Section 126 of Módtv.).

With regard to **authorising leave later than in the year when it falls due**, Para. (1) of Section 12 of Act CX of 2008 amended Para. (3) of Section 134 of the former Labour Code – with effect from 1 January 2009 – inasmuch as it defined the conditions of authorising leave carried over from one year to the next in the year in which it falls due.

"(3) Any leave shall be authorised in the year in which it falls due. Leave shall be regarded as authorised in the year in which it falls due if – in case it commenced in the year in which it fell due – it ends without any uninterruptions in the following year and the portion of the leave period carried over does not exceed five work days. After the end of the year in which the leave falls due, the employer
a) authorises the leave by 31 March of the year following the year in which the leave fell due in the event of economic reasons of particular importance or any direct and consequential reason arising in connection with the employer's operation, or, if so provided in the collective agreement, by 30 June of the year following the year in which the leave fell due,
b) authorises leave within a period of thirty days after the employee's illness ends or some other hindrance beyond reasonable control affecting the employee ceases to exist. No deviation from this provision shall be considered valid."

With effect from 1 August 2011, the Módtv. enacted the following amendments:

- Para. (1) of Section 10 of amended point b) of Para. (3) of Section 134 of the former Labour Code inasmuch as it introduced the option to authorise leave within 183 days:

"b) in the event of the employee's illness or some other hindrance beyond reasonable control affecting the employee personally, within a period of thirty days after the illness ends or the hindrance is lifted, or, if the duration of the hindrance lasts 183 days or more, within 183 days after the hindrance ends".

The amendment is intended to ensure that the employer has a longer period of time to authorise leave. If the employee is absent for a relatively long period of time for reasons due to which the employer is obliged to authorise absence and employee may not be allowed to go on leave for a longer period of time, there is no justification for the obligation to authorise leave within a short period of time after the end of such absence.

- Para. (2) of Section 10 amended Para. (4) of Section 134 of the former Labour Code as follows:

"(4) Leave may only be authorised in several portions at the employee's request. The employer may authorise leave in more than two portions for direct and consequential reasons arising in connection with its operations or due to economic interests of particular importance; however – unless the parties agree otherwise – the employee shall remain entitled to a leave of minimum fourteen subsequent calendar days at least one time a year."

Jurisprudence required a more flexible definition of the frameworks of authorising leave. To promote flexible employment, the amendment is aimed at ensuring the opportunity for authorising leave in more than two portions not only if so required by the employee but also if necessitated by the employer's important economic interests or reasons arising in connection with its operation. In consideration of the governing provision of Act LXVI of 2000 on the promulgation of Convention No. 132 adopted at the 54th session of the International Labour Conference in 1970, granting one leave of at least 14 days of uninterrupted absence per one year remains mandatory.

- Para. (3) of Section 10 amended Section Para. (9) of Section 134 of the former Labour Code by adding a reference to Para. (4) with regard to the interpretation of the concept of "economic interests of particular importance":

"(9) For the purposes of point a) of (3), Para. (4) and (6), economic interests of particular importance shall mean any circumstance that relates to the allocation of paid annual leave and that has no bearing on work organization, that, however, would adversely affect the operations of the employer if arising in tandem with the allocation of paid annual leave in full in the year when it falls due."

- Section 11 amended Section 136 of the former Labour Code in respect of **compensatory payment for a leave**

It eliminated the opportunity of compensatory payment for leave in the case of enlisting for regular military or civil service. Moreover, the amendment allows for partial financial compensation upon the employee's return from an unpaid leave authorised for the purpose of tending to or caring for a child, subject to the employee's agreement. This provision helps

employees returning to their jobs (principally, mothers with young children) receive extra benefits.

"136. (1) Upon the termination of employment, the employee shall be entitled to financial compensation for any leave the employee had not been authorised to take in proportion to the length of employment. Upon the termination of unpaid leave allocated for the purpose of taking care of or nursing a child – in case the employee has not been allocated the leave during the first six months of the unpaid leave authorised for the purpose of taking care of or nursing a child –, such a leave may be replaced by financial compensation if so agreed upon by the parties. Leave shall not be financially compensated under any other circumstances. No deviation from this provision shall be considered valid."

With effect from 1 January 2012, Para. (1) of Section 62 of Act CXCI of 2011 on the benefits for persons with changed working capacity and the amendment of certain acts introduced (hereafter: Mmtv.) Para. (6a) of Section 211 of the Labour Code on the financial compensation of leave with regard to the transitional period:

"(6a) Upon the termination of unpaid leave commencing and expiring after 1 August 2011, an agreement may be concluded as specified by Para. (6) to the effect that financial compensation is possible only in the case of leave authorised for the first six months of unpaid leave even if the employee is entitled to leave for the first year of the unpaid leave [Para. (5) of Section 138]."

The provisions on the financial compensation for leave were applicable not only to unpaid leave commencing after 1 August 2011 but also at the time of the termination of unpaid leave expiring after 1 August whether or not the duration for which the leave is authorised is taken into consideration in terms of a twelve-month or a six-month period. The agreement may allow for the partial financial compensation of the leave; that is, leave authorised for the first six months of the unpaid leave may be financially compensated for even if the employee is entitled to leave during the first year of the unpaid leave.

With effect from 1 August 2011, Section 12 of Módtv. introduced Para. (5a) of Section 138 of the former Labour Code:

"(5a) In case an employee intends to interrupt unpaid leave as specified in Para. (5), the employee shall notify the employer of this intention. The employer shall comply with its obligation of employment
a) after a period of maximum thirty days after the employee notifies the employer of the intention in case the employee intends to start work before the end of the six-month period,
b) after a period of maximum sixty days after the employee notifies the employer of the intention in case the employee intends to start work when the six-month period ends or later."

On the basis of practical considerations, the amendment is intended to ensure that employees notifiy their employer in due course of the fact their intention to return to work after a relatively long period of unpaid leave authorised for the purpose of taking caring of or nursing a child.

With effect from 1 January 2012, point a) of Section 60 of Act CXCI of Mmtv. amended Para. (2) of Section 132 of the Labour Code on the conditions of eligibility for incremental leave available for employees with children:

"(2) Employees shall be entitled to
a) two days of incremental leave for one child,
b) four days of incremental leave for two children,
c) a total of seven days of incremental leave a year for more than two children
provided that the children are under sixteen years of age. With regard to such incremental leave, a child shall first be taken into consideration in the year of its birth and for the last time in the year of its sixteenth birthday."

The aim of the amendment is to ensure that – in conformity with Directive 2010/18/EU – both parents are entitled to incremental leave for children. Under the new regulation, both parents may be authorised to take incremental leave. In practice this means that, for example, for one child the mother is entitled to two days of incremental leave and the father is also entitled to two days of incremental leave. The parents are entitled to incremental leave separately; they may not share it with each other. This means that it is not possible for the mother to be taken three days of incremental leave and for the father to take one day for the same child. The former condition which specified the necessity of assessing which person has a greater share of the tasks related to raising the child was dropped. Employees are entitled to incremental leave regardless of which of the parents has a greater share of the tasks related to raising the child.

In the case of occasional employment, Sections 130-137 of the Labour Code did not apply pursuant to point a) of Para. (1) of Section 11 of Act LXXIV of 1997 on employment with temporary work book and the simplified payment of public contributions.

From 1 April 2010 to 31 July 2010, the provisions of the former Labour Code on entitlement to and authorising leave were regarded as applicable with regard to **simplified employment.**

Pursuant to Efo. in case of simplified employment Section 134 of the former Labour Code were applied (Para. 3 of Section 4).

With the entry into force of the Labour Code – on 1 July 2012 – the provisions of Sections 122-124 of the former Labour Code on granting leave do not apply in the case of simplified employment or employment relationship aimed at casual work.

II. The new Labour Code

The provisions of the Labour Code on leaves entered into force on 1 January 2013; for this reason, until 31 December 2012 the governing provisions of the former Labour Code were applied as per point b) of Para. (2) of 298 of the Labour Code.

B. Provisions on public servants

The provisions of Kjt. were modified in the reporting period as follows:

With effect from 1 June 2011, Section 22 of Act LII of 2011 on governmental servants added Para. (2) to Section 57 of Kjt. as follows:

"(2) Public employees in senor executive positions and public employees in executive positions are entitled to an incremental leave of ten and five working days, respectively."

Moreover, point j) of para (1) of Section 54 of Act CXXVI of 2009 on the amendment of certain repealed Section (4) of Kjt. on incremental leave to be granted to scientists. Furthermore, section 57/A of Kjt. on the longer basic leave to be granted to public employees in senior executive positions was repealed with effect from 1 January 2011 (Section 5 (1) of Act CLXXV of 2010).

With effect from 1 January 2010, Section 13 of Act CXXVI of 2009 added Section 57/B (see below) to the Kjt.:

"57/B. § Public employees in senior executive positions and in executive positions are entitled to basic leave of a duration defined in Section 57/A, with the exception of appointed executive employees who perform educational work in crèches, early childhood centres or kindergartens, in primary, secondary or tertiary education or in the healthcare sector, who are entitled to the basic leave defined in Section 56 and to incremental leave as defined in Section 57 (3)."

With effect from 31 March 2010, Para. (1) of Section 37 of Act XXXIX of 2010 on the amendment of certain social and employment regulations after the entry into force of the new Civil Code introduced Para. (2) below:

"(2) Acting executive employees are not entitled to the incremental leave defined in Para. (1) of Section 57."

With effect from 1 January 2011, Section 57/B of Kjt. was amended by Act CLXXV of 2010 as follows:

"57/B. § (1) Public employees in top executive positions and public employees in executive positions are entitled to a base leave of thirty-five days and thirty days per year, respectively, with the exception of mandated executive employees who perform educational work in crèches, early childhood centres or kindergartens, in primary, secondary or tertiary education or in the healthcare sector, who are entitled to a base leave defined in Section 56 and to an incremental leave defined in Para. (3) of Section 57."
"(2) Mandated executive employees are not entitled to the incremental leave defined in Para. (1) of Section 57."

With effect from 31 March 2011, Decree 11/2011 (III.9.) AB of the Constitutional Court repealed Section 57/B of Kjt. on the basis of Para. (1) of Section70/A of the Constitution (standard of general equality).

"The Constitutional Court ruled that it cannot be reasonably justified why it is only in certain cases that the ordinary leave (which serves as an opportunity for them to replenish their physical and mental energy used up in the course of their work) of public employees in top executive and executive position reflects the fact that such employees have a greater workload, when compared to employees in non-executive position. Neither can it be reasonably and constitutionally justified why some non-executive public employees who are in the same payroll class and payroll status as public employees in executive and top executive positions have ordinary leave of the same duration as their executive and top executive

counterparts. It cannot be reasonably and constitutionally justified either why, in other cases, some public employees in executive top executive position are entitled to a shorter ordinary leave regardless of their increased workload than non-executive public employees in the same payroll class and payroll status."

With effect from 1 January 2012, Section 58 of Kjt. stipulates the following:

"58 (1) With the exceptions referred to in Para. (2)-(3), the public employee shall be entitled to incremental leaves on various grounds at the same time.
(2) Out of the incremental leaves to be granted on the basis of payroll status [Para. (1) of Section 57] and of position [Para. (3) of Section 57] , the longer period of incremental leave shall be granted.
(3) Out of the incremental leaves to be granted on the basis of position or status [Para. (2) of Section 57] , the longer incremental leave shall be granted."

Accordingly, the public employee – besides his or her basic leave – is entitled to incremental leaves on various grounds at the same time, regardless of the fact if he or she is entitled to the incremental leave on the basis of the former Labour Code or Kjt. (*Para. (1) of* Section 58 of Kjt.). This means that no restriction of aggregating applies to the basic leave, to the incremental leave defined in the former Labour Code and to the incremental leave defined in Para. (5)-(6) of Section 57 of Kjt. Exceptions in this respect are defined in Para. (2)-(3) Section 58 of Kjt.

C. Provisions on public officials

The regulation on basic and compensatory leave of civil servants laid down in Para (1-5) of Section 41 of the Act on public servants (Ktv.) is taken over with the same content by Para (1-5) of Section 101 of the Act on Public Officials (Kttv.). Pursuant to Para (1) of Section 101 of the Kttv., the amount of basic leave remains 25 working days. Pursuant to Para (2) of Section 101 of the Kttv., the amount of compensatory leave remains the same in the case of a public official with a tertiary-level qualification (3-11 working days), or with a secondary-level qualification (5-10 working days) or holding an executive position (11-13 working days), compliant with the classification of public officials. The amount of compensatory leave for town clerks laid down in Para (6) of Section 41 of the Ktv. remains the same pursuant to Section 252 of the Kttv., according to which the deputy town clerk is entitled to 11, the town clerk to 12 and the senior town clerk to 13 working days of compensatory leave. From 1 March 2012, compensatory parental leave is regulated by Section 102 of the Kttv..Previously, Para (2) of Section 132 of the former Labour Code included the relevant regulation, which had to be applied in the case of civil servants until 29 February 2012 as background legislation. The regulation referred to in the Labour Code was amended by Section 60 of Act CXCI of 2011 on the provisions of persons with reduced working capacity and the amendment of other acts from 1 of January 2012, so that both parents became entitled to compensatory parental leave, irrespectively of which parent takes a greater role in raising the child(ren). The reason for the amendment was the fact that, in accordance with Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, both male and female employees are entitled to compensatory leave, with regard to their engagement in paid employment by the employer. This new rule

also applies in the case of government officials and civil servants from 1 January 2012; the Kttv. which came into effect on 1 March 2012 includes regulation in accordance with this.

The rule on 5 working days of compensatory leave for blind employees laid down in Para (3) of Section 132 of the former Labour Code has been amended by Para (5) of Section102 of the Kttv. in such a way – in accordance with the provisions of the Labour Code – that the public official is entitled to compensatory leave of 5 working days per year in case any kind of health damage of at least 50% is found.

The administrative breaks were regulated by paragraph 17 of Act LVIII of 2010 on the legal status of Government officials, in effect from 6 July 2010 to 29 February 2012 (hereinafter: *Ktjv.),* but only with regard to central state administrative bodies and their territorial and local authorities, and not with regard to the whole public administration. Having regard to the central state administrative bodies and their territorial and local authorities, the government has the right to lay down in a decree a period (administrative break) in a given year for each administrative area, during which a specified part of paid annual leave is allocated. The head of office of the state administrative body has the right to determine a different period or duration within the period of administrative break laid down by the government for each organisational unit, during which leave is allocated or taken. The leave thus allocated or taken shall not exceed three-fifths of the basic leave of the government official determined for the current year.

From 1 March 2012, the regulation on the administrative break was amended by Section 108 of the Kttv. so that the implementing rules regarding the administrative break are laid down in a single decree and not in separate decrees issued each year. Implementing rules regarding the administrative break are regulated by Sectios 13-15 of 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. The administrative break means 5 consecutive calendar weeks each summer and 2 uninterrupted weeks each winter. The vacation not allocated in the current year (saved up over the course of the previous years) can be issued in its entirety within the period of the administrative break.

The Kttv. contains special rules regarding the allocation of vacation, which are only typical for public administration, such as the plan for the vacation schedule and the allocation of vacation different from the one in the plan for the vacation schedule.

D. Provisions on the professional members of armed forces and Hungarian Defence Forces

Para (1-3) of Section 90 of the Act on professional members of the armed forces:
"(1) The amount of basic leave is 25 working days.
(2) The amount of annual compensatory leave in the case of professional members of the armed forces with tertiary-level qualification:

a) after 0-2 years of service	*3 working days;*
b) after 3-5 years of service	*4 working days;*
c) after 6-10 years of service	*5 working days;*
d) after 11-15 years of service	*6 working days;*
e) after 16-20 years of service	*7 working days;*
f) after 21-25 years of service	*8 working days;*
g) after 26-30 years of service	*9 working days;*

h) after minimum 31 years of service 10 working days.

In the case of professional members of the armed forces with secondary or lower level qualification, the amount of compensatory leave is 1 day less.

(3) Instead of the compensatory leave laid down in paragraph 2, professional members of the armed forces holding a leading position shall be entitled to extra executive leave. The scope of entitled persons and the amount of days:

a) 11 working days in the case of a person in a leading position classified as a head of unit,

b 12 working days in the case of person in a leading position classified as a deputy head of department,

c) 13 working days in the case of person in a leading position classified as a head of department,

d) 14 working days in the case of a person holding a leading position as a national level deputy commander,

e) 15 working days in the case of a person holding a leading position as a national commander."

The Act on the legal status of Hungarian private soldiers states the amount of basic leave, titles and amount of compensatory leave and the times giving rise to entitlement to vacation, and provides for the general and special rules on the allocation and compensation of vacations. Paid leave of more than four weeks per year is ensured by the Ministry of Defence and the Hungarian Defence Forces.

The Act lays down a service time allowance for the father upon child birth, even in cases when the child is stillborn or dies. In derogation from the general rules, if the father serves abroad then the service time allowance is due within thirty days after the end of the international service.

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. Employment-related provisions

In the reporting period, the regulation of the former Labour Code was not amended with regard to mitigating the risks of dangerous or unhealthy professions.

The Labour Code specifies as a basic obligation that an employer is obliged to employ employees in compliance with the rules pertaining to employment relationships (Para. (1) of Section 51 of the Labour Code). An employee may only be hired for a job that, with regard to his or her physical build and/or state of physical development, will not result in detrimental consequences (Para. (3) of Section 51 of the Labour Code). The employer shall ensure the requirements of occupational safety and health. The employer shall offer employees a health screening test prior to their entry into employment as well as regular health screening tests during the term of their employment (Para. (4) of Section 51 of the Labour Code).

With regard to employment relationship with public employers within the scope of the Labour Code, the Labour Code contains a separate provision to regulate the definition of shorter full-time hours in positions where the employee is exposed to danger or health risks. In such cases, full-time daily hours shorter than normal full-time working hours may be defined on the basis of Para. (3) of Section 205 of the Labour Code. The positions in which an employee is exposed to dangers and health-related harm may be regulated by the employer or by the collective agreement in harmony with the characteristics of the given job, in consideration of the provisions on risk assessment of Act XCIII of 1993 on labour safety (hereafter: Mvt.). Pursuant to the principles of labour law (Sections 5-8 of the Labour Code) and arising from the employer's employment obligation (Section 51 of the Labour Code), employers are obliged to review the conditions of employment and, on the basis of a position/job assessment, to define the categories where shorter than ordinary full-time working hours time may be defined in order to eliminate health-related risks or dangers.

In the case of health-related risks as defined in the rules relating to employment,

- an uneven schedule of work is only permitted with the employee's consent,
- weekly days of rest cannot be distributed unevenly,
- no overtime or stand-by may be ordered (Para. (2) of Section 113 of the Labour Code),
- the employee's scheduled daily working hours may not exceed eight hours in the case of night work (Para. (4) of Section 113 of the Labour Code).

Rules pertaining to the employment relationship include legislation, collective agreements and works agreements, and the binding decisions of the conciliation committee as per Section 293 (Section 13 of the Labour Code).

B. Provisions on public servants

With effect from 1 January 2009, Act LXI of 2008 amended Section 57 (6) of Kjt. as follows:

"(6) Regardless of the daily working time they spend in job positions exposed to health-related risks, incremental leave as defined in Para. (5) shall be granted to public employees employed in a position with regular exposure to two heath-related risks simultaneously, provided that one of those risks is not related to ionizing radiation."

C. Provisions on public officials

From 1 March 2012, as compared with Para (7-8) of Section 41 of the Ktv., Para (6-7) of Section 101 of the Kttv. include the same regulation on the five and ten working days of compensatory leave that are due to public officials working permanently underground or at a workplace exposed to ionising radiation, or to public officials working in a position exposed to double health damage at a workplace exposed to radiation hazard.

D. Provisions on professional members of the armed forces and the Hungarian Defence Forces

Para (2) of Section 85 of the Act on professional members of the armed forces:
"In the case of an extremely dangerous service position, the daily frame of service time that can be devoted to such activities shall not exceed 6 hours per day even if the service time is determined irregularly."

In case of dangerous positions or positions harmful to health, the aim is to eliminate the danger and risk. If this is not possible, then the aim is to mitigate and compensate for them.
There is an occupational safety training session and examination every year, and everybody is obliged to take an exam. Protective equipment shall be provided in the case of dangerous positions. In the case of dangerous positions that are harmful to health, allowances and/or compensatory leave are given as a compensation. The rate of dangerous positions is below 15%.

2) KEY DATA AND STATISTICS

The frequency of regulation on work harmful to health in collective agreements applying to a single employer in the private and public sectors *(Source: NMH - Hungarian Labour Inspectorate)*

Regulation on work harmful to health - Private sector					
Year	Data sheet (number)	Applies	Does not apply	Same as in the Labour Code	No reply
2009	185	38	125	19	3
2010	180	37	121	20	2
2011	120	19	92	9	0
2012	120	25	82	12	1

Regulation on work harmful to health - Public sector					
Year	Data sheet (number)	Applies	Does not apply	Same as the provision	No reply
2009	92	17	51	22	2
2010	83	14	54	14	1
2011	37	6	26	5	0
2012	20	2	15	3	0

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. Employment-related provisions

I. The former Labour Code

In the reporting period, with regard to the regulation on weekly rest periods, the following legal amendments were made:

With effect from 1 January 2009, Para. (1) of Section 123 of the former Labour Code was amended by Para. (3) of Section 34 of Act LXI of 2008 on the amendment of Act XXXIII of 1992 on the legal status of public servants inasmuch as it introduced provisions governing the cases of divided daily working time. Accordingly,

"(1) A minimum eleven-hour uninterrupted rest period shall be granted to employees between the conclusion of daily work and the commencement of work on the following day. For employees employed in divided daily working time, an uninterrupted rest period of minimum eight hours shall be granted."

The amendment is intended to allow for the implementation of rules other than the general rules on daily rest periods in the case of divided daily working time, in order to utilize the opportunity for flexible employment provided for by Directive 2003/88/EC concerning certain aspects of the organization of working time.

With regard to standby, Para. (3) of Section 123 of the former Labour Code was amended – with effect from 1 June 2009 – by Section 9 of Act XXXVIII of 2009 on the amendment of acts affecting the requirement of regulated labour relationships and other measures necessitated from the aspect of labour as follows:

"(3) If the employee performed no work during the stand-by period, he or she shall not be entitled to any rest period after a stand-by shift."

The amendment is justified by the fact that it is not obligatory to give rest periods in case the employee has performed no work – and thus could rest – during the stand-by period. A difference with regard to former legislation is that this issue is regulated by the Labour Code instead of the collective agreement.

As of 1 December 2011, Para. (1) of Section 18 of Módtv. amended Section 193/E (3) of the former Labour Code in order to clarify the implementation of rules on – among others – rest periods. Accordingly, with regard to hired-out employees – with the exceptions of the cases referred to in Para. (2) of Section 193/B – the governing rules on working time and rest periods applicable to the user undertaking on the basis of legislation or a collective agreement shall be applied for the complete duration of employment by the user undertaking. (point c) of Para. (3) of Section 193/E).

Moreover, Módtv. introduced – with effect from 1 August 2011 – the special rules pertaining to the employment relationship between school cooperatives and their members. Pursuant to Para. (1) of Section 194 of the former Labour Code, for the purposes referred to in point e) of Para. (1) of Section 55 of Act X of 2006 on cooperatives, a school cooperative and its full-time student member may enter into an employment relationship so that the member may work for a third party in order to perform a service offered by the school cooperative to the third party. According to the act on cooperatives, such work performance qualifies as personal participation. With regard to such employment relationships, the rules of the former Labour Code shall be applied with the departures defined by law. Pursuant to point c) of Section 194/D of the Labour Code, during the fulfilment of the obligation of work by the member, the third party shall comply with the employer's obligations related to the observation of rules pertaining to rest periods and the to recording rest periods.

With regard to **occasional employment** – pursuant to point a) of Para. (11) of Section of Act LXXIV of 1997 on employment with temporary work book and the simplified payment of public contributions–, Sections 123-125 of the former Labour Code were not applicable.

From 1 April 2010 to 31 July 2010, in the case of **simplified employment** as per Eftv., Sections 123-125 of the former Labour Code were regarded as governing provisions. Pursuant to Eftv., employment may be established in a simplified manner (simplified employment) by an employer who is a natural person exclusively for the purpose of the performance of household work, by an employer that is a priority public utility organization, for the purpose of the performance of seasonal work in agriculture or in tourism, or for the purpose of the performance of casual work (Para. (1) of Section 1).

As per Efo. entered into force on 1 August 2010 and repealed Eftv. Accordingly, employment may be established in a simplified manner (simplified employment) for the purpose of performing seasonal work in agriculture or in tourism or of occasional work (Para. (1) of Section 1). In the case of simplified employment, Para. (1) of Section 124 of the former Labour Code on work performed on Sunday shall not apply (point h) of Para. (2) Section 4). With the entry into force of the new Labour Code on 1 July 2012, the provisions of Sections 104-106 of the Labour Code govern simplified employment.

With regard to persons performing **household work**, Act XC of 2010 on the creation and amendment of certain laws on economic and financial issues (hereafter: Gptv.) entered into force on 1 August 2010. For the purposes of Gptv., the work-related legal relationship is created between domestic personnel and the employer (Para. (2) of Section 1 of Gptv.). Domestic personnel: natural persons who perform household work not as private entrepreneurs or corporate entrepreneurs (point 3 of Para. (2) of Section 1 of Gptv.). Employer: the natural person who is the employer or client of the household personnel (point 4 of Para. (2) of Section 1 of Gptv.). "Household work: the activities aimed exclusively at ensuring the conditions necessary for the everyday life of natural persons and the persons sharing the same household; such activities are as follows: cleaning the flat, cooking, laundry, ironing, babysitting services, teaching children at home, home nursing, home-care services, housekeeping services, gardening (point 1 of Para. (2) of Section 1 of Gptv.)."

In cases where the household personnel are employed within the framework of an employment relationship, provisions of Sections 104-106 of the Labour Code shall be regarded as governing provisions.

II. The new Labour Code

The Labour Code regulates daily rest periods as follows:

"53. Daily rest period
104. § (1) Employees shall be afforded at least eleven hours of uninterrupted rest period after the conclusion of daily work and before the beginning of the next day's work (daily rest period).
(2) A rest period of at least eight hours shall be provided to employees working
a) split shifts;
b) continuous shifts;
c) multiple shifts;
d) in seasonal jobs;
e) in stand-by jobs.
(3) The daily rest period shall be at least seven hours if it falls on the date of switching to summer time.
(4) After an inactive stand-by period the employee shall not be entitled to any rest period."

The employee shall be entitled to a rest period between finishing his daily work and starting his work next day. Para. (1) of Section 104 of the Labour Code regulates the concept of daily rest period in accordance with Article 3 of Directive 2003/88/EC. Para. (2) of Section 104 of the Labour Code regulates the cases where the employee must be provided a rest period of less than eleven hours but at least eight hours, by virtue of the right of derogation specified in Article 3 of Directive 2003/88/EC.

Section 105 of the Labour Code stipulates the following in connection with the weekly rest day:

"54. Weekly rest day
105. § (1) Workers shall be entitled to two rest days in a given week (weekly rest day).
(2) In the case of uneven work schedule the weekly rest days may be scheduled unevenly as well.
(3) In the application of Para. (2), after six days of work one rest day shall be allocated in a given week, with the exception of employees working in continuous shifts, multiple shifts or seasonal jobs.
(4) With the exception set out in point f) of Para. (1) of Section 101, workers shall be allocated at least one weekly rest day in a given month on a Sunday."

Sections 105-106 of the Labour Code contain separate provisions regarding the weekly rest day and the weekly rest period. When evaluating the weekly rest day, the definition of the working day and the week shall also be taken into consideration in accordance with Section 87 of the Labour Code:

"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 Para. (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."

Para. (1) of Section 87 of the Labour Code makes it possible to define the working day with two different methods with respect to the distribution of working hours: as a calendar day (period between 12.00 am and 12.00 pm) or an uninterrupted period of twenty-four hours determined at the discretion of the employer. For example, Para. (1) of Section 87 of the Labour Code allows the employer to define a 24-hour period as a working day in case over working hours are carried over, i.e. when the start and end of the working hours are not on the same day.

With respect to weekly rest days or public holidays, this means that the limitation imposed by Para. (2) of Section 87 of the Labour Code must be taken into account as it provides that the time period between seven hours and twenty-two hours shall be regarded as a weekly rest day or public holiday. Therefore, the period between 7 and 22 hours must be regarded as a rest day or a public holiday under any circumstances. This means that the employer must define rest days and public holidays in the work schedule in a way that this period is included. The definition of work days and rest days (public holidays) is uniformly applicable to every employee employed according to the same work schedule. The differences in the distribution of working hours during a single work day are irrelevant for the definition.

Accordingly, pursuant to Para. (1) of Section 105 of the Labour Code, employees shall be entitled to two rest days per week. The week may be a calendar week or an uninterrupted one hundred and sixty-eight hour period defined by the employer. The employee shall be entitled to two rest days per week within these limits.

The Labour Code sets forth provisions regarding the distribution rather than the allocation of rest days. Similarly to the earlier regulation, the act does not specify the requirement to provide the rest day in kind unconditionally. The requirement of providing the rest day in kind is included in the Labour Code in the form of an indirect regulation. To that end, the Labour Code limits the duration of weekly working hours and the duration of overtime.

The Labour Code does not expressly specify the day when the weekly rest day must be provided, that is to say allocation on a Sunday is not a requirement. According to the definition of the general work schedule (pursuant to Para. (2) of Section 97 of the Labour Code, work shall be scheduled for five days a week, between Monday through Friday (standard work pattern)), employees employed in this work schedule must be provided their weekly rest days on Saturday and Sunday.

In case work schedule is uneven, rest days can also be allocated unevenly. When doing so, two rest days per week must be provided to the employee on average, within the working time banking and the payroll period. As a consequence, when closing working time banking and the payroll period, it is not only the time actually worked, but also the weekly rest days that must be paid.

The regulation of the combination of rest days in the Labour Code is different from earlier regulations. In contrast to Section 124 of the previous Labour Code, the Labour Code does not expressly regulate the combination of rest days. However, the rules for the provision of weekly rest days allow the combined allocation of rest days in the limited number of cases

defined in Para. (3) of Section 105 of the Labour Code. Accordingly, it is not mandatory to provide one weekly rest day after six working days for employees working in continuous shifts, doing shift work or seasonal jobs. At the same time, taking into consideration Para. (4) of Section 105 of the Labour Code, workers shall be allocated at least one weekly rest day on a Sunday each month even if they work continuously for more than six days. However, even in that case, the provision requiring employers to ensure that the work schedule of employees is drawn up in accordance with occupational health and safety requirements and in consideration of the nature of the work shall be enforced according to Para. (1) of Section 97 of the Labour Code. This means that the requirements set forth in Para. (5) of Article 2 are taken into consideration for the allocation of working hours. Employers shall provide regular rest periods to their employees accordingly, and the combination of rest days may not be arbitrary.

Section 106 of the Labour Code stipulates the following in connection with the weekly rest period:

"55. Weekly rest period
106. § (1) In lieu of weekly rest days, workers shall be given at least forty-eight hours of uninterrupted weekly rest period each week.
(2) With the exception set out in point f) of Para. (1) of Section 101, the weekly rest period of workers shall be allocated at least once in a given month on a Sunday.
(3) In the case of an irregular work schedule, in lieu of the weekly rest period specified in Para. (1) workers may be allocated – in accordance with Para. (2) – the uninterrupted weekly rest period comprising at least forty hours in a week and covering one calendar day. Workers shall be provided at least forty-eight hours of weekly rest period as an average of working time banking or the payroll period.

In comparison with Section 124 of the former Labour Code, the regulation changed concerning the replacement of weekly rest days with a weekly rest period, i.e. for providing a weekly rest period instead of weekly rest days. According to Section 124 of the former Labour Code, weekly rest days could only be replaced by a weekly rest period if the employer applied working time banking. Para. (1) of Section 106 of the Labour Code does not include a limitation of this kind. This is because the employer has the right to allocate working hours, meaning that it is also entitled to decide whether an employee should be provided weekly rest days or a weekly rest period.

Para. (3) of Section 106 of the Labour Code allows the flexible provision of weekly rest periods. This means that in the case of an irregular work schedule, workers may be allocated an uninterrupted weekly rest period comprising at least 40 hours in a week and covering one calendar day. The rule governing allocation on a Sunday at least once in a given month is still applicable pursuant to Para. (2) of Section 106 of the Labour Code, on the understanding that employees shall be provided at least 48 hours of weekly rest period as an average of working time banking or the payroll period. The weekly rest period may not be provided on a combined basis. When applying weekly rest periods, even in case of an irregular work schedule, employees shall be provided at least 40 hours of weekly rest period each week, meaning that regular working hours can be allocated to employees for a maximum continuous period of six days.

A collective agreement may derogate from the provisions of Sections 104-106 of the Labour Code only to the benefit of workers (according to point f) of Para. (2) of Section 135 of the Labour Code). Unless otherwise provided for by law, the employment contract may also

derogate from these provisions and from the employment regulations to the benefit of the employee (Para. (1) of Section 43 of the Labour Code). Such derogations shall be adjudged by comparative assessment of related regulations (Para. (2) of Section 43 of the Labour Code).

From the specific provisions relating to certain categories of workers, the following provisions of the Labour Code must be taken into account in respect of rest period:

"113. § (1) The provisions on working time and rest periods shall apply subject to the exceptions set out in Para. (2)-(4):
a) from the time the employee's pregnancy is diagnosed until her child reaches three years of age;
b) until the child of a single parent reaches three years of age;
c) for any employee who works under conditions which may be harmful to his health as defined by the relevant employment regulations.
(2) In the cases referred to in Para. (1):
a) an uneven work schedules may be used only upon the employee's consent;
b) weekly rest days may not be allocated irregularly;
c) extraordinary work or standby duty cannot be ordered."

According to pointc) of Para. (3) of Section 114 of the Labour Code, the daily rest period allocated to young workers shall be at least twelve hours. In the case of young workers, Para. (2) of Section 105 and Para. (3) of Section 106 shall not apply (Para. (4) of Section 114 of the Labour Code).

In the case of labour hired through temporary agencies, the employer's rights and obligations relating to working time and rest periods, and keeping records thereof, shall accrue upon the user enterprise (point c) of Para. (4) of Section 218) during the assignment.

In the case of employment relationships between school cooperatives and their members, during the period of work performed by the employee, the customer shall exercise and discharge the employer's rights and obligations relating to compliance with the provisions on working time, rest period and the records of these (point c) of Para. (3) of Section 224 of the Labour Code).

B. Provisions on public officials

Article 124 of the former Labour Code included the regulation on weekly rest days as background legislation with regard to public servants and government officials. This regulation has been taken over by Para (4) of Section 95 and Para (7) of Section 92 of the Act on public officials (Kttv.). Thus, the regulation on weekly rest days remains unchanged in content: the public official is entitled to two consecutive rest days per week, one of which is on Sunday (weekly rest day). Pursuant to Para (7) of Section 92 of the Kttv., in the case of a different work schedule around public holidays (working day transfer), Para (4) of Section 95 of the Kttv. regarding the rule on two rest days per week does not apply to the calendar week affected by work on Saturday. From 1 March 2012, certain detailed rules on the determination of work hours are included in Government Decree No. 30/2012. In the case of irregular determination of working time, the weekly rest days can be determined irregularly pursuant to paragraph 1 of Article 5 of 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. In this case, one rest day shall be given to the public

official after six working days, except for the public official employed in seasonal work. In addition, one rest day a month shall be given on Sunday. Pursuant to Para (1) of Section 6 of Government Decree 30/2012, in the case of irregular determination of working time, the public official can also be provided with a minimum of forty-eight hours of uninterrupted rest period per week, instead of the weekly rest days. The weekly rest period shall be scheduled on Sunday at least once a month, except for a part-time public official working only on Saturday and Sunday. Pursuant to Para (3) of Section 6 of Government Decree 30/2012, in the case of irregular determination of working time, an uninterrupted rest period consisting of merely forty hours and including one calendar day can also be provided as a minimum, as long as the public official is provided with at least forty-eight hours of rest period on the average of the working time cycle by the employer.

C. Provisions on professional members of the armed forces and Hungarian Defence Forces

Pursuant to Para (3) of Section 86 of the Act on professional members of the armed forces (hereinafter: *Hszt.*), the rest period means the period between the end of daily service and the beginning of service on the following day (i.e. next day). This regulation is in accordance with Article 3 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. However, Article 5 of the Directive states under the heading "weekly rest period" that "per each seven-day period, every worker is entitled to a minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest referred to in Article 3". For example, the provision of two resting days per week pursuant to Para (4) of Section 86 of the Hszt. corresponds to a minimum uninterrupted rest period of 24 hours per each seven-day period.

Para. (3) and (5) of Section 86 of the Hszt.:

"(3) Professional members of the armed forces shall be provided with a consecutive rest period of at least 8 hours between the end of daily service and the beginning of service next day, which does not include the duration of travelling from their accommodation to the station and back. The daily rest period is at least 7 hours if it starts at the beginning of daylight saving time.
(4) Professional members of the armed forces shall be entitled to 2 resting days per week, which are preferably allocated tat oncer. In the case of professional members of the armed forces who serve continuously on stand-by duty, one resting day out of the rest ingdays in a certain month shall be on Sunday.
(5) By way of derogation from paragraph 4, the resting day – except for the extremely dangerous service positions – can be allocated in the aggregate each month due to the service engagement."

2) KEY DATA AND STATISTICS

Substantive measures taken by the labour directorate regarding non-compliance with the rules on rest periods:

		2009	2010	2011	2012
Violation of rules on rest periods	number of measures	689	765	822	802
	persons affected	6,008	6,387	6,473	5,668
	number of decisions on the merits	552	660	629	197
	number of warnings	87	27	185	584

Source: NMH - *(Hungarian Labour Inspectorate)*

Frequency of regulation on rest period, daily rest period in the private sector and in collective agreements applying to a single employer

Private sector, collective agreement applying to a single employer				
	Data sheets of collective agreement	Regulation on rest period	Regulation on daily rest period	
		Applies	Applies	same as in the Labour Code
2009	185	113	96	58
2010	180	113	99	53
2011	120	78	71	33
2012	120	73	70	29

Source: *NMH (Hungarian Labour Inspectorate)*

Frequency of regulation on the combination of weekly rest period in the private sector and in collective agreements applying to a single employer

	Data sheets of collective agreement	monthly	bi-monthly	every 6 months	Annually	no regulation	no reply
2009	185	89	20	16	3	55	2
2010	180	87	21	16	7	48	1
2011	120	54	16	9	13	27	1
2012	120	44	10	7	16	34	9

Source: *NMH (Hungarian Labour Inspectorate)*

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. Employment-related provisions

I. The former Labour Code

In the reporting period, the following amendments were made to the regulations concerning compliance with the disclosure requirement:

From 1 April 2010 to 31 July 2010, in the case of household work according to the Act CLII of 2009 on simplified employment (hereinafter: Eftv). Para. (7)-(8) of Section 76 and Sections 76/A-76/B of the Labour Code regarding the disclosure obligations of the employer must be applied with the derogation that information may also be provided orally (point (c) of Para. (3) of Section 4). For the purposes of the Act, *household work* shall be an employment relationship established by a natural person employer exclusively with a view to establishing the conditions necessary for his or her everyday life, as well as for the everyday life of persons living in the same household or his or her close relatives (Para. (1) of Section 2).

The Act LXXV of 2010 on simplified employment procedures (hereinafter: Efo). entered into force on 1 August 2010, replacing Eftv. Pursuant to Efo the provisions of the former Labour Code regarding the disclosure requirement had to be applied without derogation for employment relationships established for the purposes of simplified employment.

II. The new Labour Code

The Labour Code includes the following provisions regarding the disclosure obligations of the employer in writing.

"46. § (1) The employer shall inform the employee in writing within fifteen days from the date of commencement of the employment relationship concerning:

a) the daily working time;

b) wages above the base wage, and other benefits;

c) payroll accounting, the frequency of payment of wages, and the day of payment;

d) the functions of the job;

e) the number of days of paid annual leave and the procedures for allocating and determining such leave; and

f) the rules governing the periods of notice to be observed by the employer and the employee; furthermore

g) whether a collective agreement applies to the employer; and

h) the person exercising employer's rights.

(2) The information referred to in points (a)-(c) and (e)-(f) of Para. (1) hereof may also be given in the form of a reference to the relevant employment regulations.

(3) If the employment relationship is terminated before the fifteen-day period lapses, the employer shall perform the obligation referred to in Para. (1) at the time specified in Para. (2) of Section 80.

(4) Employees shall be informed of any change in the name or other major particulars of the employer or in the details referred to in Para. (1) in writing within fifteen days of the effective date of the change in question.

(5) The employer's obligation to provide information, except for point h) of Para. (1), shall not apply if, by virtue of the employment contract:

a) the term of the employment relationship does not exceed one month; or

b) the working time does not exceed eight hours per week.

47. § In the case of work to be performed abroad for a period of more than fifteen days, the employee must be informed in writing at least seven days before the date of departure of the following, in addition to what is contained in Section 46:

a) the place and duration of the work abroad;

b) the benefits in cash or in kind;

c) the currency to be used for the payment of remuneration and other payments; and

d) the conditions governing the employees repatriation.

According to Para. (3) of Section 50 of the Labour Code, a collective agreement may derogate from the provisions of Sections 46-47 only to the benefit of workers.

During the reference period, the scope of labour inspections still covers compliance by the employer with the provisions on the requirement of written disclosure (point a) of Para. (1) of Section 3 of Met.).

B. Provisions on public officials

The employer's obligation to provide information on establishing a legal relationship is regulated by Para (1) and (2) of Section 8 of Government Decree 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 in line with the rules laid down in the Labour Code, while taking into account some distinctive features of legal relations in public and government service such as the start of service time and the entitlement to jubilee benefits.

"8. Article 1 Simultaneously with the appointment, the person exercising the rights of the employer informs the public official of:

a) the regular work hours,

b) the date of commencement of service time giving rise to entitlement to jubilee benefits, and the expected date of reaching the next classification and payment category,

c) the other allowances and their amount,

d) the transfer date of remuneration,

e) the date of commencement of employment,

f) the *rules on determining the notice period,*

g) the number of days of paid annual leave and the procedures for determining and allocating such leave, and

h) the person exercising the rights of the employer.

(2) The person exercising the rights of the employer shall hand over the information laid down in paragraph 1 to the public official also in writing within thirty days from the appointment at the latest. The written notification can also be supplemented by reference to the provisions of legislation or internal regulations. The person exercising the rights of the employer shall inform the public official of any changes in the conditions laid down in points (a)-(d) and (f)-(g) of paragraph 1 in writing within thirty days from the change at the latest."

C. Provisions on professional members of the armed forces and Hungarian Defence Forces

Pursuant to Para (3) of Section 39 of Act XLIII of 1996 on the service relationship of professional members of the armed forces, the letter of appointment regarding the professional enrolment shall include all relevant data on the service relationship, particularly the date of commencement of the service relationship, the service position and station, the rank, the position category within the classification group, and the payment category of the professional member of the armed forces, the fact that he or she has taken the oath and the date on which it was taken, and in the case of stipulating a trial period, the duration of the trial period and the date by which the degree (qualification) required for the final appointment is to be obtained. One copy of the letter of appointments shall be handed over to the member of staff.

In the reporting period, the obligation to provide information was regulated by Para (5) and (6) of Section 43 of Act XCV of 2001 on the legal status of professional and contracted military personnel of Hungarian Defence Forces.

According to the obligation to provide information, simultaneously with the handover of the contract of enrolment and letter of appointment, Hungarian Defence Forces shall inform the member of staff on the order of service, the remuneration classification system, the method of payment of remuneration, the date of entry into service, the calculating method of the amount of paid leave, rules on allocating vacation time and determining the notice and resignation period, and other allowances and their amount.

Pursuant to the provisions previously referred to, Hungarian Defence Forces shall disclose the statutory information to the member of staff in writing within 30 days from the handover of the documents at the latest.

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. Employment-related provisions

In the reporting period, the following amendments were made to the regulations concerning night work:

According to Section 89 of the Labour Code, 'night work' shall mean work carried out between twenty-two hours and six hours, which is identical with the definition set forth in the former Labour Code. Other than that, the Labour Code does not provide a definition of employees doing night work.

Pursuant to point a) of Para. (2) of Section 135 of the Labour Code, a collective agreement may set forth a definition of night work only in a way that it does not derogate from the rules of the Labour Code to the detriment of workers. A collective agreement may derogate from Section 89 of the Labour Code only to the benefit of employees, taking into consideration points 3 and 4 of Article 2 of Directive 2003/88/EC. Accordingly, the period determined in the collective agreement may not be shorter than seven hours, and the night period must incorporate the period between midnight and 5 a.m. For instance, work performed between midnight and 8 a.m. may be treated as night period according to a collective agreement.

Among the special provisions on certain employee groups, the Labour Code stipulates that work in night shifts may not be ordered from the time the employee's pregnancy is diagnosed until her child reaches three years of age and until the child reaches three years of age, in the case of a single parent (Para. (3) of Section 113 of the Labour Code). For any employee who works under conditions which may be harmful for health as defined by the relevant employment regulations, working time shall not exceed eight hours in respect of night work. (Para. (4) of Section 113 of the Labour Code). Young workers may not be ordered to work at night and may not be ordered to work overtime (Para. (1) of Section 114 of the Labour Code).

In the context of wage supplements payable for night work, Section 142 of the Labour Code stipulates that employees, other than those entitled to shift premium, shall be entitled to a fifteen per cent wage supplement for night work, provided that it exceeds one hour. Employees shall be entitled to 15% in supplementary wages in case of night work (work done between 10 p.m. and 6 a.m.) if they are not entitled to shift premium, and if the duration of such night work exceeds one hour. This means that employees are not entitled to night supplement when doing work between 2.40 p.m. and 11 p.m.; however, if work is performed between 3.10 p.m. and 11.30 p.m., the employee is entitled to night supplement for the whole period between 10 p.m. and 11.30 p.m.

To ensure alignment with the Labour Code, Para. (1) of Section 30 of the Mth. amended Section 49 of Mvt. with Para. (3) and (4), to take effect as of 1 July 2012:

"(3) Medical fitness tests shall be organised by the employer for employees doing night work (Section 89 of the Labour Code) according to their work schedules on a regular basis or in at least one quarter of their annual working hours prior to starting employment and periodically during the employment relationship at intervals defined in the rules on the employment relationship.
(4) The employee shall be scheduled to work during the day if the medical examination concludes that night work would jeopardise the health of the employee mentioned in Para. (3) or if there is a causal relationship between an illness and the performance of night work."

Essentially, this amendment included in the Mvt. the provisions set forth in Para. (2) of Section 121 of the previous Labour Code to ensure alignment with Directive 2003/88/EC.

B. Provisions on the professional members of the armed forces and Hungarian Defence Force

The Act on professional members of the armed forces (Hszt.) lays down a payment of 0.5% night supplement per hour for night work.

Pursuant to point (b) of paragraph 1 of Article 86 of the Hszt., professional members of the armed forces who raise their child alone shall not be assigned to night duty or 24-hour duty, if childcare cannot be provided by anyone else.

Special rules particularly with regard to night work have not been laid down in the Act CCV of 2012 on the legal status of Hungarian private soldiers (Hjt.), so the rules on overtime apply to the work performed during this period.

Pursuant to Articles 91-95/B of the Hjt., the period of service overtime that can be ordered is 300 hours per calendar year, which can be increased by 50% by ministerial decree.
The member of staff – except for the commander of staff and the higher ranking commander (superior) – is entitled to time off for 150 hours of service overtime per year, and payment for any hours of service overtime above this amount. The commander of staff may permit payment for service overtime within the 150-hour limit if the allocation of time off endangers the provision of service.
For service overtime, the member of staff is entitled to time off or payment equal to the period of service overtime; or to time off or payment equal to two times the amount of the service overtime if it was performed on a weekly rest day or public holiday.

The time off for service overtime shall be allocated on the day(s) following the service overtime but not later than within 30 days. Derogation from this provision may be made if the service overtime was performed in the framework of a service time of several weeks, a month or a year.

If the time off for service overtime is not allocated then the member of staff is entitled to absentee pay for the period of service overtime, which shall be simultaneously paid with the monthly remuneration after the current month at the latest.

The service overtime shall be ordered in writing by the commander of staff. A record shall be kept of the fulfilled service overtime and its compensation.

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

A. Employment-related provisions

I. The former Labour Code

In the reporting period, the following amendments were made to the regulations:

The provisions of Act XXII of 1992 on the Labour Code (hereafter: former Labour Code) did not change with respect to the right to organise.

Taking effect as of 1 January 2012, Article XVII of the Fundamental Law stipulates the following regarding industrial relations:

"(1) Employees and employers shall cooperate with each other in order to ensure jobs, make the national economy sustainable and for other community goals.
(2) Employees, employers and their representative bodies shall have a statutory right to bargain and conclude collective agreements, and to take any joint action or hold strikes in defence of their interests."

However, the right of association is governed by a new Act. Act II of 1989 on the right of association was replaced, as of 1 January 2012, by Act CLXXV of 2011 on right of association, non-profit status, and the operation and funding of civil society organisations (hereafter: Ectv.).

The Fundamental Law of Hungary, which entered into force on 1 January 2012, ensures the freedom of association as follows (Para. (2) and (5) of Article VIII):

"(2) Every person shall have the right to establish and join organisations.
(5) The right to freedom of association shall allow the free establishment and operation of trade unions and other representative bodies."

The Ectv. details the guarantees for the operation of organisations established on the basis of the right of association in accordance with the Fundamental Law.

The Ectv. stipulates that the right of association is a fundamental freedom available to all, on the basis of which everyone has the right to establish organisations with others and join organisations (Para. (1) of Section 3 of the Ectv.) Based on the right of association, natural persons, legal entities in accordance with the objectives of their activities and the intentions of their founders, as well as the organisations of these without legal personality, may establish and operate organisations (Para. (2) of Section 3 of the Ectv.). According to the previous regulation, only private individuals were allowed to be members of trade unions. Based on the above-mentioned provision of the Ectv., however, legal entities can also become members of trade unions.

The exercise of the right of association may not violate Para. (2) of Article *(C)* of the Fundamental Law, may not constitute a criminal offence or encourage the commission of a criminal offence, and may not entail the violation of the rights and freedom of others (Para. (3) of Section 3 of the Ectv.). On the basis of the right of association, an organisation may be established for the performance of any activity that is in accordance with the Fundamental Law and is not prohibited by law (Para. (4) of Section 3 of the Ectv.).

The Ectv. specifically mentions trade unions as special civil society organisations, a special type of association. Pursuant to Para. (1) of Section 4 of the Ectv., an association is an organisation established on the basis of the right of association, whose special forms, such as alliances, parties, trade unions, as well as associations performing activities subject to special legislation, may be governed by rules different from the provisions on associations. The name of associations operating in a special form must include the designation referring to this special form.

The court registration of associations established on the basis of the Ectv. is regulated by Act CLXXXI of 2011 on the court registration of civil society organisations and related rules of procedures, which entered into force on 1 January 2012 (para. (a) of Section 4).

This Act summarises the rules on registration, which are also applicable to trade unions. The Act specifies the documents to be attached to the application for the registration of organisations, the tasks of courts after the submission of the application for registration, the conditions for rejecting applications, criteria for the substantive examination of the application for the registration of the organisation, and specifically the content elements of the application for the registration of the organisation (including trade unions), as well as the procedural rules for the registration of the association.

II. The new Labour Code

The Act I of 2012 on the Labour Code (hereafter: Labour Code) regulates the guarantees for ensuring the right to organise based on the provisions of the Fundamental Law and the Ectv. Part three of the Labour Code specifies rules regarding industrial relations. Chapter XIX stipulates the following among its general provisions:

***"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.
***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 associations or to join such, including international federations as well.
(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 specify the objective and subject of the regulation on a declaratory basis. Section 230 of the Labour Code summarises labour regulations related to "industrial relations", while Section 231 covers the various partial rights related to the freedom of affiliation.

A key objective of the re-regulation of industrial relations to create rules that are fully compliant with the intended purpose of collective rights by improving the efficiency of regulations on employee participation and the conclusion of the collective agreements. By separating the roles of works councils and trade unions, the Labour Code completely redefines the collective labour regulations, reducing the entrepreneurial and social costs of the previous system. The Labour Code is aimed at promoting employee representation at workplace level through work councils and at sector level through trade unions.

Trade unions are regulated by Chapter XXI of the Labour Code. This Chapter covers the definition of trade unions (Section 270 of the Labour Code), the guarantees arising from membership in a trade union (Section 271), the rights of trade unions (Section 272), the protection of trade union officials (Section 273), working time reduction (Section 274), and the conditions for the use of premises (Section 275).

Para. (1) of Section 270 of the new Labour Code expressly stipulates that the rights afforded to trade unions shall be due to the local trade union branch represented at the employer. In addition, the Labour Code defines trade union and local trade union branch represented at the employer, identically with the definition in the former Labour Code. Accordingly, 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 authorized for representation or has an officer at the employer (Para. (2) of Section 270 of the Labour Code)."

The prohibition of discrimination, the respect of the freedom of affiliation, the prohibition of causing a disadvantage in connection with membership in a trade union, as well as related guarantees are stipulated in Section 271 of the Labour Code as follows:

***"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 membership in any trade union, on whether or not the employee terminates his previous trade union membership, or on whether or not he 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 in any other way on the grounds of trade union affiliation or trade union activity.

(4) Any entitlement or benefit may not be rendered contingent upon affiliation or lack of affiliation to a trade union."

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

- Right to conclude collective agreements (Para. (1) of Section 272 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 are described under Para. 2 of Article 6.

- Right to provide information to workers (Para. (2) of Section 272 of the Labour Code)

Trade unions shall have the right to provide information to workers relating to industrial relations or employment relationships. Para. (2) of Section 272 of the Labour Code limits the subject of providing information to issues related to industrial relations and employment relationships, which is more limited in scope than the earlier regulation. The former Labour Code allowed trade unions to inform employees of their financial, social and cultural rights and obligations, as well as their rights and obligations related to their living and working conditions. The current regulation specifically relates to the relationship between the trade union and the employer and issues in connection with the employment relationship.

- Right to request information (Para. (4) of Section 272 of the Labour Code)

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

- Right of trade union propaganda (Para. (3) of Section 272 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. Accordingly, if the trade union wishes to inform the employees of its activity, possibly for the purposes of recruitment, the employer must provide proactive assistance in this matter, e.g. by making available any equipment necessary for disclosure.

According to general judicial practice, trade unions are allowed to exercise their right of providing information in accordance with the intended purpose of such information, in compliance with the obligation of cooperation, not only outside the regular office hours (BH 2011 263).

- Right to express opinions and initiate talks (Para. (5) of Section 272 of the Labour Code)

Trade unions shall be entitled to express their position and opinion to the employer concerning any employer actions (decisions), or the draft of such decisions, and to initiate

talks in connection with such actions. In this respect, trade unions have the right to communicate their opinions on any employer action (decision), or the draft of any such decision, to the employer. However, the employer is not obliged to take into consideration the opinion of the trade union. The trade union may also initiate consultations in order to express its opinion. *The general rules of consultation are covered in Para. 2 of Article 6 and in Article 21.*

- Right of representation (Para. (6)-(7) of Section 272 of the Labour Code)

Trade unions shall have the right to represent their members before the employers or their interest groups concerning the workers' rights and obligations relating to their financial, social, as well as 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 right to representation. This means that they may take action against the employer without authorisation. However, they may represent employees before a court, authority or other body only with proper authorisation.

As a change compared to the former regulation, trade unions now represent all employees before the employer, rather than only their members. Furthermore, trade unions are no longer entitled to represent their members before state bodies without being authorised to do so.

- Right to use the employer's premises (Para. (8) of Section 272 of the Labour Code)

The new Labour Code grants the right to use premises in an unchanged form. Trade unions shall 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.

- Right to transfer membership dues free of charge (Para. (9) of Section 272 of the Labour Code)

Employers shall not claim any compensation for withholding and transferring membership dues to the trade union. The deduction of trade union membership fees is still regulated by Act XXIX of 1991 on the voluntary nature of employees' payment of membership fees in a representative organisation.

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

The purpose of working time reduction governed by Section 274 of the Labour Code is to ensure the performance of interest representation activities. In contrast to the earlier regulation, working time reduction may be granted to trade union officials as well as to any other employee designated by the trade union. As a further change, the duration of working time reduction is shorter than in the former regulation. Also, the new Labour Code repealed the former provision which used to require that employers provide financial compensation for any unused portions of working time reduction, capped at maximum fifty percent of the working time reduction.

Working time reduction has the following preconditions:

With a view to discharging their trade union functions of interest representation, employees shall be entitled to working time reduction, and the employees designated according to Para. (3)–(4) of Section 273 shall be exempted from work for the duration of consultation with the employer (Para. (1) of Section 274 of the Labour Code. The total amount of working time reduction available in a given calendar year shall be one hour monthly for every two trade union member 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 (Para. (2) of Section 274 of the Labour Code).

Working time reduction shall be provided to the employee 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 (Para. (3) of Section 274 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 (Para. (1) of Section 274 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 (Para. (5) of Section 274 of the Labour Code).

- Right to be admitted onto 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 permitted to enter the employer's premises if a member of the trade union in question is employed by the employer. The person permitted to enter the employer's premises shall abide by the provisions of the employer's internal policies.

The labour law protection of trade union officials is covered by Section 273 of the Labour Code as follows:

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 Para. (3) to serve as an elected trade union official, and for the employer's actions referred to in Section 53 (Para. (1) of Section 273 of the Labour Code). 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 (Para. (2) of Section 273 of the Labour Code).

The number of officials the trade union is entitled to designate from among the workers employed at a fixed establishment which is considered independent according to Para. (2) of Section 236, if the average statistical number of employees employed during the previous calendar year is:

a) less than five hundred, it shall be one;
b) between five hundred and one thousand, it shall be two;
c) between one thousand and two thousand, it shall be three;
d) between two thousand and four thousand, it shall be four;
e) more than four thousand, it shall be five.

(Para. (3) of Section 273 of the Labour Code)

In addition to the officials designated in this manner, labour law protection shall also be afforded to one other person designated by the supreme body of the local trade union branch represented at the employer (Para. (4) of Section 273 of the Labour Code). Trade unions shall

be entitled to replace the employee designated in accordance with Para. (3)-(4) if the employment relationship or trade union position of the employee has been terminated (Para. (5) of Section 273).

The trade union shall make known its opinion in writing with respect to the employer's action referred to in Para. (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 disagreement. 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 (Para. (6) of Section 273 of the Labour Code).

As a change compared to the previous regulation, the Labour Code requires trade unions to designate protected trade union officials in writing and notify the employer of the person of such officials. Furthermore, in contrast to the previous regulation, the Labour Code specifically regulates the number of protected officials from 1 to 5, plus 1 other person.

As far as the content of labour law protection is concerned, Para. (3) of Section 13 of Act LXXXVI of 2012 on transitional provisions and amendments related to the promulgation of Act I of 2012 on the Labour Code (hereafter: Mth.) stipulates the following with a view to ensuring the transition from the former Labour Code to the Labour Code:

"Employer actions according to Para. (3) of Section 260 and Para. (1) of Section 273 of the Labour Code include, until 31 December 2012, the following, in accordance with Act XXII of 1992 on the Labour Code:

a) secondment;

b) temporary posting for fifteen or more working days;

c) transfer to another employer (para. (1) of Section 150 of Act XXII of 1992 on the Labour Code); and

d) redeployment to do another job if it involves assigning the employee to another workplace."

As a change compared to the previous regulation, the right to express an opinion no longer exists in case of extraordinary dismissal. On the other hand, the previous Labour Code specified when an objection was deemed justified if a trade union did not agree with the proposed action.

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 (Para. (2) of Section 273 of the Labour Code).

The transitional provision is applicable in this respect too. According to Para. (1) of Section 14 of the Mth., Para. (2) of Section 273 of the Labour Code shall be applicable, as appropriate, to trade union officials provided protection according to Section 28 of the former Labour Code on 30 June 2012.

If the employer raises an objection against the granting or refusal of agreement by the trade union, the employer may initiate court proceedings to acquire the necessary statement according to Section 295 of Act IV of 1959 on the Civil Code (hereafter: Ptk.).

If the provisions on labour law protection are violated, the employer's action is against the law. The action is also against the law if the trade union refuses to grant its agreement, and, in spite of that, the employer performs the action. In that case, the employee may initiate a labour law dispute against the action. If the employer terminates an employee's employment relationship in violation of Section 273 of the Labour Code, the employer shall be liable, according to Para. (1) of Section 82 of the Labour Code, for damages resulting from the wrongful termination of the employment relationship. Furthermore, according to Section 83 of the Labour Code, the court shall reinstate the employment relationship if it was terminated in violation of Para. (1) of Section 273.

The Labour Code stipulates exceptions in the case of public employers with respect to regulations on industrial relations According to Section 206 of the Labour Code, for such employers no derogation is allowed from the provisions of Chapters XX and XXI.

Public employer means a public foundation, or a business association in which the State, a municipal government, an association of municipal governments vested with legal personality, a multi-purpose micro-regional association, a development council, an ethnic [minority] self-government body, an partnership of ethnic [minority] self-government bodies vested with legal personality, a budgetary agency or a public foundation has majority control either by itself or collectively [Para. (1) of Section 204 of the Labour Code].

'Majority control' means a relationship whereby 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 number of votes held by another legal person in that legal person (intermediary company) by the number 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 [Para. (2) of Section 204 of the Labour Code].

B. Provisions on public officials

The rules on labour law protection and the working time allowance of trade union officials laid down in Act XXIII of 1992 on the legal status of public servants (hereinafter: *Ktv*.) have been amended, with effect from 1 January 2012, by Act CLXXXIV of 2011 on the amendment of Act XLIII of 1996 on the service relationship of professional members of the armed forces (hereinafter: *Hszt*.) with regard to the reconciliation of careers in public service and on the amendment of certain employment regulations in line with the regulation concept of the Labour Code. This amendment was in effect until 29 February 2012, and these rules have in substance been incorporated into Articles 201-202 of Act CXCIX of 2011 on public officials (hereinafter: *Kttv*.) from 1 March 2012.

On the basis of this amendment, Section 66/A of the Act on Ktv. contained the regulation on labour law protection of trade union officials. Pursuant to the provisions laid down in Para. (1) of Section 66/A of the Ktv., the consent (which can be simultaneous or ex post) of the directly higher ranking trade union body is required for releasing, seconding, posting for more than fifteen working days, assigning and transferring the trade union official – if it means a position at a new workplace for the civil servant. The trade union official who has been

released on the grounds of unworthiness for office [point (a) of Para.(2) of Section 17 of the Ktv.] is not entitled to protection from 1 January 2012. Pursuant to the provisions laid down in Para (2) of Section 66/A of the Ktv., the trade union is entitled to designate a maximum of one civil servant per site. Pursuant to the provisions laid down in Para. (4) of Section 66/A of the Ktv., from 1 January 2012, the justification of the trade union should only be regarded as well-founded if the implementation of the planned measure would result in discrimination due to the contribution to interest representation activities of the trade union. On the basis of this amendment, Section 66/B of the Ktv. contains the rules on working time allowance available to the trade union official. Pursuant to the Ktv., the eligibility for working time allowance is bound to a minimum level of representation (minimum 10% of the civil servants) determined by the employer from 1 January 2012. The amount of working time allowance has been determined as 10% of the monthly working time. Pursuant to the amendment of the Ktv., the use of the working time allowance shall be reported to the employer at least 10 working days in advance (in particularly warranted cases, the employer may also authorise the use of working time allowance within this deadline). The amendment of the Ktv. clarifies that the civil servant is entitled to remuneration for the period of working time allowance, and the working time allowance cannot be redeemed for cash.

From 1 January 2012, the rules regarding the membership fees of representative organisations of employees are the following: pursuant to Para. (3) of Section 66/B of the Ktv., the membership fees can be deducted from the remuneration based on the agreement of the public administrative body and the civil servant. The legislator has tried to reduce the burden on employees, when there has been reasonable opportunity to do so. The deduction of membership fees imposed an obligation on the employer which resulted in extra responsibilities not directly related to the government service legal relationship, so it was considered appropriate by the legislator to maintain this obligation only in the event of a related agreement between the parties. From 1 March 2012, the above rule regarding the deduction of membership fees has been adopted by Para. (6) of Section 197 of the Kttv. and – in order to establish coherence with the Labour Code – the regulation has been supplemented by a provision according to which the employer shall not claim any compensation for the transfer of membership fees to trade unions [Para. (5) of Section 197 of the Kttv.].

From 1 January 2012, with regard to civil servants and government officials, Para. (4) and (5) of Section 25 of the former Labour Code on paid leave for training trade union members (one day per year), and Section 23 of the Labour Code on the right of the trade union to raise an objection against unlawful action of the employer, and further, Para. (3) and (4) of Section 22 of the Labour Code on the control of rules pertaining to working conditions by the trade union, shall not be applied in order to establish coherence with the concept of the Labour Code. For the same reason as above, Para (2) of Section 24 of the Labour Code, according to which a trade union has the right to use the employer's premises, shall not be applied from 1 January 2012; however, this amendment does not preclude that, based on the permission of employer, trade unions shall have the right to use the employer's premises during or even after the working hours for the purposes of their interest representation activities. The right of a person acting in the interest of a trade union – who is not in a legal relationship with the employer – to enter the employer's premises shall not be affected [Section 19/A of the former Labour Code and, from 1 March 2012, Para. (3) of Section 202 of the Kttv.].

The Kttv., which came into effect on 1 March 2012, has defined the concept of a trade union represented at the public administrative body in point (18) of Section 6 in its explanatory provisions, and the concept of a trade union in point (30) of Section 6 in its explanatory

provisions, in the same way as defined in the Labour Code. Paragraphs 195-197 of the Kttv. regulates the right to freedom of organisation in a more detailed way than before, because the related provisions of the former Labour Code (for example, the definition of a trade union, the right to organise, the rights of trade unions, the right to join a trade union, the right of trade unions to request information, the obligation of employers to provide information) was previously used as background legislation. Paragraph 5 of Section 196 of the Kttv. stipulates that the local trade union represented at the state administrative body shall be entitled to the rights of trade unions prescribed by the Kttv. The main entitlements of trade unions are the following: the right to create and organise a trade union [Para. (4) of Section 195 of the Kttv.], the right to inform public officials [Para. (6) of Section 200 of the Kttv.], the right to represent public officials against employers or representative organisations of employers [paragraph 8 of Section 200 of the Kttv.], the right to represent trade union members before courts or any other authorities [Para. (9) of Section 200 of the Kttv.], the right to give an opinion and consultation [Para. (2) and (3) of Section 202 of the Kttv.], and the right to request information and make a proposal [Para. (4) and (5) of Section 200 of the Kttv.].

The guarantee rules (e.g. prohibition of discrimination) public officials are entitled to due to trade union membership – pursuant to Articles 26-27 of the old Labour Code – have been added into Article 197 of the Act on Public Officials with the same content.

C. Provisions on professional members of the armed forces and Hungarian Defence Forces

Act XLIII of 1996 on the service relationship of professional members of the armed forces (hereinafter: *Hszt.*) contains the following provisions on this subject:

Para. (1) and (2) of Section 21 of the Hszt.:

"(1) Professional members of the armed forces may organise or join a representative organisation based on the right of association, within the framework of this Act. Representative organisations are entitled to establish or join associations, including international associations.

(1a) Representative organisations shall operate and exercise their privileges freely within the framework of this Act. Nevertheless, they have no right to organise a strike and shall not, by their activities, prevent the lawful and normal operation of the armed forces or the fulfilment of obligations by professional members of the armed forces related to executing commands and measures, including the endangerment of maintaining public trust required for operating the armed forces.

(1b) Professional members of the armed forces shall have the right to establish a representative organisation - subject to conditions provided for in legislation - for the purposes of advancing and protecting economic and social interests, without any discrimination, together with other people; or join or refuse to join an organisation of their choice, only depending on the rules of the organisation.

(2) Professional members of the armed forces have no right to join an organisation whose activities are incompatible with the tasks of the armed forces."

Paragraphs (1) and (3) of Section 33/C of the Hszt.:

*"(1) The armed force*s *ha*ve *no right to demand a declaration on membership* of *a trade union from the professional member of the armed forces.*

*(2) The establishment and maintenance of a service relationship shall not be made dependent on whether applicants or professional members of the armed forces are members of a trade union or terminate their trade union memberships or undertake to join the trade union designated by the armed force*s*.*

(3) It is forbidden to terminate the service relationship of or discriminate against a *professional member of the armed forces based on their trade union membership or activities."*

Chapter IV and Sections 21-23 of Act CCV of 2012 on the legal status of Hungarian private soldiers (hereinafter: *Hjt*.) contains the relevant provisions.

Paragraph (3) of Section I of the Fundamental Law specifies:*"A fundamental right may be restricted to allow the exercise of another fundamental right or to defend any constitutional value to the extent absolutely necessary, in proportion to the desired goal and in respect of the essential content of such fundamental right."* Accordingly, the general and special cases of restricting certain fundamental rights – particularly the right to personal freedom, the right of free choice of the place of residence, the right of assembly, freedom of speech - are included in the Act.

A representative organisation can be established by the Hungarian Defence Forces. A member of staff has the right to join or refuse to join a representative organisation. Representative organisations shall operate and exercise their privileges freely within the framework of the Hjt.; they are entitled to establish or join associations, including international associations.

As a guarantee rule, for the purposes of protecting a trade union member, it has been specified that the Hungarian Defence Forces have no right to demand a declaration on membership of a trade union, and the establishment and maintenance of a service relationship, entitlement or allowance shall not be made dependent on whether the person concerned is a member of a trade union. The basic forms of trade union reconciliation and its frameworks are defined by the Hjt.

The trade union can represent its members in cases related to their service relationships for the purposes of facilitating the exercise of rights and protecting their economic and social interests. Due to national security interests, this provision cannot be applied to members of the Military National Security Service.

The Act determines that the consent of the directly higher ranking trade union body is required for terminating the service relationship of a member holding elected office, except when the termination is mandatory. The service time allowance of trade union representatives has been defined, with the provision that it cannot be redeemed for cash.

The Hjt. defines the sectoral framework of interest reconciliation. Its basic forum is the Sectoral Interest Reconciliation Council.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

Act XXXVIII of 2009 on the amendment of acts affecting the requirement of proper industrial relations and other measures necessary from a labour perspective, modified the provisions of Act XXXVIII of 1992 on public finances (hereafter: Áht.) with effect as of 1 June 2009 and 1 November 2009. This amendment affected the consequences of violating the regulations on compliance with the wage rules included in collective agreements.

Accordingly, support may not be granted if a competent authority within its respective scope of responsibilities or a court imposed a detrimental legal consequence determined in Para. (6) against the party applying for the support by means of an administrative order that had become final and enforceable within two years before the application for support was filed or by means of a final court decision due to the amount of wages determined by law or a collective agreement, including collective agreements extended by the minister to cover an entire industry or sector, or in connection with the protection of wages due to the violation of provisions on the payment dates of wages (point d) of Para. (5) of Section 15).

The Act clarifies and standardises the criteria for proper industrial relations in the Áht., and classifies infringements into serious and less serious categorises. Serious labour law infringements (failure by the employer to comply with its notification obligation or certain infringements against the employees' representatives, trade unions or trade union representatives) are regarded as circumstances "automatically" leading to exclusion from support from the central budget or earmarked state funds. The other category of infringements, i.e. less serious infringements, on the other hand, only result in exclusion from the central budget and earmarked state funds if the employer applying for the support commits the same infringement subject to a fine within two years again. Another condition of excluding and employer with more business locations provides that any of the infringements listed under points *(c)-(i)* of Para. (5) of Section 15 of the Áth. need to be committed twice at the same business location of the employer in the course of two years.

The scope of infringements leading to exclusion has become narrower. As a general rule, infringements whose inspection does not fall into the scope of competence of the labour authority or any other authority responsible for verifying compliance with the labour regulations are no longer included in the conditions for proper industrial relations. As a result, some of the infringements previously included in Para. (9) of Section 15 of the Áht. have been omitted, along with the condition related to compliance with the provisions of Section 21 of Act XXI of 2003 on the establishment of the European Works Council and on the establishment of the procedure of informing and consulting employees.

After amending Section 15 of the Áht., Act LXXV of 1996 on labour inspection (hereafter: Met.) also changed as of 1 June 2009. In order to ensure that fines, which have become a fundamental criterion for compliance with requirements related to industrial relations, are not based on the subjective considerations of the employees of the authority, the Act requires the imposition of fines on a mandatory basis for a broader scope of cases.

As far as application of the principles of the right of association and collective negotiations and the protection of collective rights are concerned, the following provisions of the Met. are applicable according to the regulation in effect between 1 June 2009 and 31 December 2011:

"3. § (1) Labour inspections shall cover compliance with the following:

g) provisions on the amount of wages determined by law, collective agreement, or a collective agreement extended by the minister to an entire industry or sector, as well as provisions on the protection of wages;

l) employers' obligations regarding the provisions on the establishment of trade unions to protect the economic and social interests of employees;

m) provisions on the labour law protection and working time reduction of employees holding elected trade union offices, members of works and public servants councils, and health and safety representatives;

n) provisions on the implementation of employers' obligations related to measures that trade unions object to;

p) compliance by the employer with the provisions of Section 21 of the Act on the establishment of the European Works Council and on the establishment of the procedure of informing and consulting employees.

(2) The inspector shall carry out labour inspections ex officio in the cases specified in point (d), (l)-(n) and p) of Para. (1), as well as in the case specified in point (g) with respect to the amount of wages determined in the collective agreement, except for collective agreements extended by the minister to cover an entire industry or sector, at the request of the party whose rights or legitimate interests are affected by the case."

"6/A. § (1) In derogation from point f) of Para. (1) of Section 6 and from Section 7, the inspector shall make a proposal for imposing a labour fine, and it is mandatory to impose a labour fine if, from the provisions set forth in Para. (1) of Section 3, the employer fails to comply with

g) provisions on the amount of wages determined by law, a collective agreement, including collective agreements extended by the minister to cover an entire industry or sector, or provisions on the protection of wages for at least twenty per cent of the employees working at the business site affected by the labour inspection, not including employers under liquidation;

m) provisions on the fundamental rights of employees to establish trade unions with a view to protecting the economic and social interests of employees, or provisions on employers' obligations determined in Para. (1) of Section 28 with respect to the labour law protection of employees holding elected trade union offices, members of works and public servants councils, and health and safety representatives."

"7. § (1) A labour fine may only be imposed if the employer

b) violates any provision on the inclusion of mandatory content elements in the legal representations necessary for establishing legal relationships according to Paragraph (a) of Para. (1) of Section 3, or any provision set forth in points (e), (g), (h), (j), (o), (p), (q) or (r) for more than one employee."

The Act on labour inspection was amended in terms of the subjects covered by labour inspection as of 1 January 2012. A change in connection with the right to organise in this regard is that points *(l)-(n)* of Para. (1) of Section 3 of the Met. were repealed. As a result, labour inspections may not be performed in respect of those subjects. Therefore, the same items were also cancelled from among the conditions of proper industrial relations, which

were re-regulated as of 27 January 2012 by Decree 1/2012. (I. 26.) by the Minister of National Economy on the conditions and certification of proper industrial relations.

Furthermore, point a) of Para. (13) of Section 39 of the Mth. repealed point p) of Para. (1) of Section 3 of the Met. as of 1 July 2012. As a consequence, compliance by the employer with the provisions of Section 21 of the Act on the establishment of the European Works Council and on the establishment of the procedure of informing and consulting employees does not constitute part of the labour inspection.

3) KEY DATA AND STATISTICS

Infringements of collective rights revealed by the labour directorate in the period between 2009 and 2012, the number of employees affected, as well as experience gained during inspections on the performance of employers' obligations regarding the organisation of trade unions, compliance with the rules on the labour law protection of trade union officials, works council members, and health and safety representatives, and the performance of employers' obligations regarding measures disapproved by the trade union:

		2009	2010	2011	2012
Infringements of collective rights	number of measures	9	13	3	4
	persons affected	18,488	698	229	36

Source: National Labour Office

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. Employment-related provisions

In the reporting period, the following amendments were made to the rules on macro-level reconciliation of interests:

As one of the major changes, Act LXXIII of 2009 on the National Council for the Reconciliation of Interests (**OÉT Act**) entered into force on 20 August 2009, which provided a uniform framework of criteria for organisations participating in the nation-wide reconciliation of interests, taking into consideration the aspects included in Constitutional Court decision No. 40/2005 (X. 19.) regarding employees' and employers' interest representation bodies.

The personal scope of the OÉT Act covers OÉT and its members, the government bodies responsible for tasks related to the national reconciliation of interests, and the National Committee for the Determination of Participants (hereafter: ORMB), (Section 1).

OÉT is the most comprehensive national tripartite interest reconciliation forum, working on a continuous basis, for macro-level consultations and negotiations between national trade union and employer associations (hereafter: the workers' and employers' negotiating groups) and the government (Section 2).

The OÉT Act defines *the national reconciliation of interests* as tripartite communication between the social partners and the government, including regular exchange of information, consultations, negotiations, and the signing of agreements (Para. (1) of Section 15). *Social partners:* national interest representation association of employers, national trade union association (Para. (5) of Section 15).

The purpose of OÉT

The purpose of OÉT is to identify and reconcile the interests of workers, employers and the government, negotiate agreements, prevent and resolve any country-wide conflicts, as well as to exchange information and to review proposals and alternatives. With a view to that, the Council discusses all issues related to the world of work, including all issues and legislative proposals affecting the economy, employment and trends in wages or in connection with the payment of taxes or duties (Para. (1) of Section 3).

The scope of responsibilities and competency of the OÉT

The OÉT provides an institutional framework for consultation between the government on the one hand and workers' and employers' interest representation on the other hand, including

a) consultation on strategic proposals regarding employment policy and the labour market, as well as on the key economic, theoretic and strategic concepts affecting the distribution of income;

b) provision of an opinion on major laws affecting employment relationships (Para. (2) of Section 3).

The consultation is mainly focused on employment policy, wage policy, labour law regulations, health and safety, labour inspection, industrial relations, educational and training policy, social policy, social insurance payments and supplies, taxes and duties imposed on businesses and income from work, the annual budget, and key questions of economic policy affecting a significant part of workers and employers (Para. (3) of Section 3). Upon proposal by the negotiating groups, OÉT may conduct consultations on EU issues and drafts regarding the subject indicated under Para. (2)-(3) (Para. (4) of Section 3).

For the purposes of the Act, *consultation* means the exchange of opinions performed within the framework of social dialogue and the national reconciliation of interests, substantive discussion on the relevant positions, not regarded as a negotiation (Para. (4) of Section 15).

Within the context of the above topics, OÉT shall:

a) conduct consultations;

b) conduct negotiations and conclude agreements;

c) perform any other tasks defined by law (Para. (1) of Section 7).

Agreement shall mean any document, particularly a position paper, a recommendation or an action programme, accepted by the members of OÉT, which may be reached as a result of negotiations or consultations (Para. (2) of Section 15).

Negotiation: discussion and debate, where a decision is made subject to agreement within the forum, as stipulated by law or as agreed by the members of OÉT. Therefore, an agreement is required:

a) for joint decision-making (co-decision), as agreed in advance by the members of OÉT; and

b) for formulating OÉT's recommendation or proposal for the person or body authorised to make a decision (Para. (3) of Section 15).

Upon the request of the workers' or employers' negotiating groups within OÉT, central state administration bodies shall provide information in connection with any issue regarding the economy, social policy or labour affairs that could significantly affect the persons represented by each negotiating group (Para. (2) of Section 7).

Furthermore, the workers' and employers' negotiating groups within OÉT shall provide an opinion on the legislative concepts, proposals and drafts related to any issues mentioned under Para. (3) of Section 3 (Para. (3) of Section 7).

Framework of criteria for organisations participating in the national reconciliation of interests

For the purposes of the OÉT Act, an interest representation body or interest representation association is a social organisation established according to the Act on the freedom of association,

a) whose primary function, as defined in its statutes, is the enhancement and protection of employees' interests related to their employment relationship; or

b) whose primary functions, as defined in its statutes, include the protection and representation of employers' interests in connection with the employment relationship (Para. (1) of Section 4).

An interest representation body is national if, in addition to Para. (1):

a) its membership consists of trade unions, trade union associations; or

b) employers' interest representation bodies or associations, or employers' organisations (hereafter: member organisations); and

c) its activity is organised at a country-wide level (Para. (2) of Section 4).

The following may participate in the national reconciliation of interests:

a) trade union associations

aa) that have member organisations in at least four sectors of the national economy and at least twelve activity groups; and

ab) that have member organisations in at least three regions or eight counties, or whose member organisations have territorial or county-level organisations; and

ac) whose member organisations have an independent workplace-level organisation, or one according to the statutes of the member organisation, at a minimum of one hundred and fifty employers in total; and

ad) that are members of the European Trade Union Confederation;

b) employers' associations

ba) that have member organisations in at least two sectors o the f national economy and at least six activity groups; and

bb) whose member organisations have territorial organisations in at least three regions or ten counties; and

bc) whose membership, or that of its member organisations, consists of at least one thousand employers or businesses, or whose membership, or that of its member organisations, employs a minimum of one hundred thousand people; and

bd) that are members of a European employers' association (Para. (1) of Section 5).

To meet the above requirements, workers' and employers' interest representation bodies may enter into a coalition with one another (Para. (2) of Section 5). *Coalition* shall mean an agreement between workers' or employers' interest representation bodies concluded to ensure that their data are taken into account collectively for the evaluation of requirements for participation in the national interest reconciliation process, as a result of which they act jointly, as a single organisation, in OÉT (Para. (6) of Section 15).

Only national interest representation associations meeting the requirements set forth in Sections 4-5 may be members of the workers' and employers' negotiating groups in OÉT (Para. (1) of Section 6). The Governments' negotiating group shall be chaired by the minister in charge of social dialogue or a person delegated by the minister. The Governments'

negotiating group shall be represented by the head or delegate of the central state administration body competent in the subject according to the agenda (Para. (2) of Section 6).

In OÉT, the negotiating groups are entitled to make statements, vote for decision-making purposes, and conclude agreements (Para. (1) of Section 8). Decisions or agreements made in OÉT shall be based on a statement of approval by each negotiating group, or a statement of approval by at least two negotiating groups and abstention by the third group (Para. (2) of Section 8). Each negotiating group shall determine its own system of decision-making. If no agreement is reached in a negotiating group, the position of that negotiating group shall be determined based on approval by the majority of the members of the negotiating group, provided that none of the organisations in the relevant negotiating group objects to that position (Para. (3) of Section 8).

Data necessary for the evaluation of membership requirements for OÉT

Compliance with the requirements necessary for membership in OÉT shall be determined based on the following data:

a) designation, registered office, name of representative of interest representation bodies;

b) for employers' interest representation bodies:

ba) name, registered office, statistical code or, failing that, tax number of employers belonging to the given interest representation body;

bb) average statistical number of personnel employed by the employer members of the interest representation body in the year preceding the year in question;

c) for employees' interest representation bodies, name, registered office, statistical code or, failing that, tax number of employers where they have an organisation or a representative (Section 10).

Compliance with the requirements necessary for membership in OÉT shall be determined by ORMB in the form of an official instrument according to Sections 82-83 of Act CXL of 2004 on the general rules for public administration authority procedures and services (hereafter: Ket.)

The procedures of ORMB shall be subject to the rules set forth in the Ket., on the understanding that

a) the leader entitled to issue documents shall be the president elected by ORMB from among its members;

b) no reopening procedure may be launched as per Section 112 of the Ket.;

c) ORMB's decision may not be modified or annulled through a supervisory procedure according to Section 115 of the Ket.;

d) no legal remedy may be sought against ORMB's decision within an ordinary public administration procedure. The parties may only initiate the revision of the decision by the court.

Simultaneously with the entering into force of the OÉT Act, Act III of 1952 on the Code of Civil Procedure (hereafter: Pp.) was amended by adding the provision that the labour court shall be competent in revising the decision on the establishment of the OÉT, participation therein, and the rights granted. In this respect, the labour court shall act according to the rules set forth in Chapter XX on administrative lawsuits (Para. (5) of Section 349).

Establishing the conditions for the functioning of OÉT

The Government shall establish the conditions necessary for the functioning of OÉT through the minister in charge of social dialogue based on the agreement made within OÉT. As part of this responsibility, the Government shall:

a) provide support for the fulfilment of the tasks of the employers' and workers' interest representation bodies in OÉT arising from their participation in the national reconciliation of interests, as well as for reinforcing their participation in the reconciliation of interests;

b) facilitate the performance of administrative, management, financial and information activities related to the operation of OÉT; and

c) provide an infrastructure background for the functioning of OÉT (Para. (1) of Section 14).

The support mentioned in Paragraph *(a)* of Para. (1) may be used for the following:

a) professional programmes of OÉT member organisations, particularly for the organisation of conferences, seminars and study tours, the preparation of publications and studies, the payment of expert fees to persons not having an employment relationship or a contract for work with the member organisation;

b) professional upgrading and training provided for social partners;

c) liaising with the institutions of the European Union and with the International Labour Organisation, as well as fees related to membership in international interest representation bodies (Para. (2) of Section 14). A maximum of fifteen per cent of the amount of support may be used to cover general costs related to professional programmes (Para. (3) of Section 14).

The support mentioned in Paragraph *(a)* of Para. (1) may not be used for the following:

a) construction projects, renovations, acquisition of intangible or fixed assets with an individual value of one hundred thousand Hungarian Forints, not including the purchase of intellectual property or IT/communication devices;

b) contribution to the assets of a business entity or an organisation subject to the rules on business entities based on its business activity, or to acquire participation in such an entity;

c) investments;

d) payments to an elected official of an interest representation body based on an employment-related legal relationship or in the form of any other personnel cost;

e) contribution to the strike fund of the interest representation body (Para. (4) of Section 14).

Furthermore, the OÉT Act stipulated, with effect as of 1 January 2011, that the source and amount of support defined under Paragraph *(a)* of Para. (1) shall be determined by the Act on the central budget (Para. (5) of Section 14).

To ensure compliance with Act LXXIII of 2009 on the National Council for the Reconciliation of Interests, Act XXII of 1992 on the Labour Code (hereafter: former Labour Code) was amended as of 20 August 2009. Section 17 of the former Labour Code was replaced by the following provision:

"17. § (1) The Government, subject to consultation with the National Council for the Reconciliation of Interests, shall:

a) establish the provisions, in derogation from this Act, concerning the termination of employment due to economic reasons affecting large numbers of employees, in the interests of preserving jobs;

b) decree the provisions for the mandatory minimum wage and the guaranteed wage minimum depending on the level of education and qualification necessary for the position filled by an employee.
(2) The Government shall initiate wage negotiations on the national level by 30 September or, in the year of the general election of the Members of Parliament, by 31 October each year.
(3) If an agreement reached in the National Council for the Reconciliation of Interests necessitates legislation or the issuance of other legal instruments of state administration, the minister in charge of social dialogue shall take measures accordingly.
(4) The minister in charge of social dialogue shall determine the system of labour qualification on the basis of consultation with the National Council for the Reconciliation of Interests."

As a major change compared to the previous regulation, the Government shall define the rules indicated in Para. (1) and (4) of Section 17 of the Labour Code after consultation in the National Council for the Reconciliation of Interests (OÉT), rather than subject to approval by OÉT.

In its decision No. 124/2008 (X. 14.), the Constitutional Court established that, "based on the Constitution, (…) neither OÉT, nor the national interest representation bodies constituting it are legislative bodies. Therefore, their statutory power, based on their right of approval, to issue laws is in conflict with Para. (1) of Article 2 of the Constitution and the provisions of the Constitution on the legislative activity of the Government and the ministers." As a consequence, the amendment specifies the rules for conducting consultation, rather than the right to concur.

The OÉT Act added further provisions to the former Labour Code regarding activity group-level discussion. According to these provisions, workers' and employers' interest representation bodies shall conduct discussions in questions related to employment relationships with relevance for an activity division, group or class (hereafter collectively: sector) (Section 17/A of the former Labour Code). Furthermore, the provision granting the right to devise rules for keeping records of collective agreements was also amended. Accordingly, the minister shall determine, by means of a decree, the detailed rules for the notification requirement and keeping records after consultation with OÉT, rather than upon approval by OÉT (Para. (4) of Section 41/A of the former Labour Code).

Act LXXIII of 2009 on the National Council for the Reconciliation of Interests and Decree 21/2009 (IX. 30.) by the Minister of Social Affairs and Labour on its execution (point a) of Section 13), as well as the above-mentioned Section 16 and Para. (2)-(4) of Section 17 of the former Labour Code were repealed, as of 22 July 2011, by point b) of Section 13 of Act XCIII of 2011 on the National Economic and Social Council (hereafter: NGTT Act).

The macro-level forum of social dialogue is the National Economic and Social Council (hereafter: NGTT), with effect as of 22 July 2011.

NGTT is a consultative, proposal-making and advisory body independent from Parliament and the Government and has been established for discussing comprehensive topics related to the development of economy and society and national strategies across government cycles, as well as for promoting the elaboration and implementation of harmonious and well-balanced economic development and the associated social models, and the most comprehensive and versatile consultative forum for the dialogue between employers' and workers' interest representation bodies, economic chambers, civil society organisations active in national

policy, the representatives of science from Hungary and from beyond the borders, as well as the historical churches determined in special legislation (Para. (1) of Section 2).

The Council operates with the participation of

a) employers' and workers' interest representation bodies and interest representation associations;

b) national chambers of economy;

c) civil society organisations active in national policy;

d) historical churches determined in special legislation; and

e) the representatives of science

from Hungary and from beyond the borders (Para. (2) of Section 2). The Council seeks to achieve the widest possible national consensus and takes account of the consultation practices that have evolved in the European Union in the course of its operation (Para. (4) of Section 2).

Accordingly, the members of the council are organised into five negotiating groups (Sides) : representatives of teconomy (including the presidents of national employers' interest representation bodies and interest representation associations, earlier OÉT members, presidents of national workers' interest representation bodies and associations, earlier OÉT members) and the representatives of science, civil society organisations and the churches. The members of NGTT are determined by Section 4 of the Act as follows:

The members of the Council constitute negotiating groups (Sides). The Council consists of the following Sides:

1. representatives of economy

a) presidents of national employers' interest representation bodies and interest representation associations according to this Act;

b) presidents of national chambers of economy;

c) a joint representative of foreign and mixed chambers operating in Hungary; and

d) presidents of other social organisations whose charter defines as an objective the representation of economic interests, and whose members hold a significant market share in their field of activity, provided that the members according to Paragraphs *(a)-(c)* agree to their participation;

2. presidents of national workers' interest representation bodies and interest representation associations according to this Act;

3. civil society organisations subject to special legislation, including civil society organisations active in national policy;

4. representatives of science

a) president of the Hungarian Academy of Sciences;

b) researchers of economy and society delegated by the Hungarian Academy of Sciences, the Hungarian Rectors' Conference and the Hungarian Economic Association;

c) a cross border representative of Hungarian science appointed by the Hungarian Academy of Sciences;

5. representatives of churches according to special legislation (Para. (1) of Section 4).

Membership in the NGTT is based on authorisation by the organisation delegating the members. The NGTT is commissioned for a period of four years (Para. (2) of Section 4). The members do not receive remuneration for their work in the NGTT (Para. (3) of Section 4). Only national interest representation associations meeting the requirements set forth in para (5)-(8) may be members of the NGTT according to point 1 a) and 2 of Para. (1) of Section 4 (Para. (4) of Section 4).

For the purposes of this Act, an interest representation body or interest representation association is a social organisation established according to the Act on the right of association,

a) whose primary function, as defined in its statutes, is the enhancement and protection of employees' interests related to their employment relationship; or

b) whose primary functions, as defined in its statutes, include the protection and representation of employers' interests in connection with the employment relationship (Para. (5) of Section 4).

An interest representation body is national if, in addition to Para. (5):

a) its membership consists of trade unions, trade union associations; or

b) employers' interest representation bodies or associations, or employers' organisations; and

c) it organises its activities national level (Para. (6) of Section 4).

For the purposes of this Section, a member organisation shall mean trade unions, trade union associations, employers' interest representation bodies or associations, or employers' organisations (Para. (7) of Section 4).

The following may participate in the activity of the Council:

a) trade union associations

aa) with member organisations in at least four sections of national economy and at least twelve activity groups; and

ab) with member organisations in at least eight counties, or whose member organisations have territorial or county level organisations; and

ac) whose member organisations have independent workplace-level organisations, or organisations described in the statutes of the member organisation, at a minimum of one hundred and fifty employers in total; and

ad) that are members of the European Trade Union Confederation;

b) employers' associations

ba) with member organisations in at least two sections of national economy and at least six activity groups; and

bb) whose member organisations have territorial organisations in at least ten counties; and

bc) whose membership, or that of its member organisations, consists of at least one thousand employers or businesses, or whose membership, or that of its member organisations, employs a minimum of one hundred thousand people; and

bd) that are members of a European employers' association (Para. (8) of Section 4).

To meet the above requirements, workers' and employers' interest representation bodies may enter into a coalition with one another (Para. (9) of Section 4). Organisations possessing an official instrument issued by the ORMB according to the OÉT Act on the effective date of the Act shall be regarded as members of the NGTT according to point 1 a) and 2 of Para. (1) (Para. (10) of Section 4). Interest representation bodies review the fulfilment of the membership requirements specified in Para. (5)-(9) after the expiry of the official certificates and every four years thereafter. The NGTT shall be promptly informed of the result of the review (Para. (11) of Section 4).

Permanent invitees include:

The ministers or other leaders of state administration appointed by them attend the plenary meeting of the NGTT as permanent invitees in an advisory capacity (Para. (1) of Section 5). The presidents or vice presidents of the Hungarian Competition Authority and the Hungarian Statistical Office attend the plenary meeting of the NGTT as invitees in an advisory capacity (Para. (2) of Section 5).

Scope of responsibilities of NGTT:

In the context of its capacity to consult, express opinions and make proposals, the NGTT

a) keeps track of and analyses the socio-economic development of the country;

b) makes proposals to the National Assembly and the Government concerning the solution of macro-economic and social problems;

c) discusses Government strategies and concepts on employment policy, labour market, income distribution, and other issues affecting a large number of people, as well as fundamental questions in connection with the economy, employment, income trends and social policy;

d) expresses an opinion on proposed Government measures directly affecting businesses, employment and a large number of people;

e) participates in assessing the expected impacts of laws and other Government decisions and inform the Government on the results;

f) conducts consultation on strategic issues related to the European Union;

g) discusses all national economy or social policy issues placed on its agenda upon proposals supported by two-thirds of the members of the NGTT (Para. (1) of Section 3).

The following provisions shall be applicable with respect to the work organisation, operation and the publicity of operation of NGTT:

The NGTT carries out its work at plenary meetings, which are prepared with the contribution of permanent or ad hoc working groups. Plenary meetings are held as necessary, but at least four times a year. Plenary meetings are convened by the president. A plenary meeting shall also be convened upon a written proposal to that effect by at least two Sides or at least two-third of the members (Para. (1) of Section 7).

With respect to the items of the agenda, the plenary meeting of the NGTT shall

a) conduct consultations and, accordingly

b) express opinions,

c) establish positions,

d) make proposals,

e) accept recommendations,

f) pass resolutions on its operation (Para. (2) of Section 7).

The work of the council is assisted by a secretariat. The minister in charge of the coordination of Government activities (hereafter: minister) shall be responsible for establishing the personal and physical conditions for the secretariat’s work (Para. (3) of Section 7). The members of the NGTT shall establish consistent positions in each negotiating group. Each negotiating group of theNGTThas one vote for decision-making purposes. Unless otherwise provided in the organisational and operational rules of the NGTT (hereafter: operational rules), the NGTT makes its decisions with simple majority of votes (Para. (6) of Section 7).

The NGTT prepares a report on its activities in the previous year by 31 March each year, which is published by the Government on its website (Para. (1) of Section 8). The opinions, positions, proposals and recommendations of the NGTT are published by the Government on its website (Para. (2) of Section 8). The minister prepares a report by 31 March each year on how the opinions, positions, proposals and recommendations of the NGTT were utilised in the previous year in law-making and in the work of the Government (Para. (3) of Section 8).

On the basis of the Report on the activity of the NGTT in 2011, consultations were conducted on the following issues:

1. *Economic policy, budget and the world of work*

During the consultation, the negotiating group of the representatives of the economy and the negotiating group of employees claimed that a tripartite coordination forum should be established with the participation of the state and the employers and employees from the business sector, similarly to the National Public Service Interest Reconciliation Council (hereafter: OKÉT). The negotiating group of employees expressed its disagreement with the introduction of the 16% single-tier personal income tax (PIT).

With regard to the enhancement of employment, the Side of NGOs drew attention to the potential opportunities of the non-governmental sector and offered co-operation with the government to contribute to enhancing the number and rate of employed people in the population.

The Side of Representatives of Sciences drew attention to the importance of analyses and impact assessments carried out with exact numbers, in respect of which it has offered its co-operation to the Government.

The Side of Churches agreed with the strategic goals of the Government, and their values are supported by the representatives of this Side.

2. *Healthcare consolidation, structure change*

Furthermore, the Side of Employees drew the attention of the Council and the Government to the humiliating salaries of public servants working in healthcare. The Side of employers reminded the representatives of the Government of the necessity to address the questions of the health business, medical tourism and gratuities.

The Side of NGOs expressed its opinion regarding its trust that the structural reform outlined by the Government would result in the renewal of the health care system and in its safe and well-functioning development. They have drawn attention to the importance of efficient communication of the structural reform, in which they intend to participate by offering their help. They underlined the importance of the career model to be set up for employees in the health sector and raised the need for re-regulation regarding compensation cases in the health sector.

A more active strategy for employees in the health sector is required in the opinion of the Side of Representatives of Sciences.

3. *The determination of the mandatory minimum wage and the guaranteed wage minimum*

4. *The expected extent of wage increase in 2012 in order to keep the net value of wages below HUF 300,000 and the amount of fringe benefits that may be taken into account in this respect*

The Sides made the following proposals during the consultations on the topic areas mentioned in Sections 3 and 4:

The Side of the representatives of economy put forward the following proposals:

- based on the two acts underpinning the draft Government Decree in question, an implementing regulation should also be issued;
- the description of the method of calculating fringe benefits should be more accurate;
- retrospective wage increases should be made possible for employers in 2012;
- the range of data that must be reported in the monthly tax returns on employees should be specified clearly;
- if the expected wage increase fails to materialise in the given month for clearly technical reasons, corrections should be allowed within the framework of self-revision, without any detrimental consequences.

The Side of Churches and the Side of Representatives of Economy proposed that a Guideline should be made in addition to the Government Decree on wage increases, which would facilitate the practical use of the Government Decree and make a uniform interpretation possible.

The Side of Employees highlighted the importance of impact assessments. The National Economic and Social Council did not put forward a consistent, coordinated position, proposal or recommendation during the consultations held in 2011.

Based on the report on the 2012 activity of the NGTT, consultations have taken place in the following topics:

1. *The National Rural Strategy and the "Darányi Ignác" Plan*

The NGTT has been informed of the current situation of the Hungarian agro- and food industry, and the National Rural Strategy and its implementation programme, the "Darányi Ignác" Plan. The Council has noted the information.

The Side of NGOs welcomed the proposal and ensured that the Side of NGOs fully supports the strategy. It has been underlined as a positive side of the strategy that it takes account of the mitigation of territorial differences and the participation of non-governmental organisations.

The Side of Employees underlined that the strategy deals with topics important for trade unions, including those related to employment. It welcomed the complexity of the document. It underlined that a broad co-operation of the Hungarian society is required for the successful

implementation of the programme and added that the Side of Employees is willing to participate in this work.

The Side of Representatives of Sciences welcomed the complexity of the document and supports the strategy in spite of a few shortcomings.

The Side of Representatives of the Economy welcomed the document, in the elaboration of which this Side also participated and monitored its progress.

The Side of Churches informed the Council that the church communities support the implementation of the programme, which facilitates the fulfilment of humans and serves the interests of the community.

2. Reform of the educational institution system

The NGTT has been informed of the preparation of the new Act on Public Education, the objectives to be achieved by the Ministry of Human Resources, the transformation of the institution system and undergoing changes, and the reasons for introducing a new Act on Public Education.

The Side of NGOs supported what has been said and the directions of the new Act on Public Education; they underlined the role of the Side of NGOs in public education.

The Side of Employees agrees with the values behind the reform of public education but has reservations about the majority of the reforms.

The Side of Representatives of Sciences supported the reform process of public education and underlined that the different levels of education are associated with each other, so if the problems of higher education are to be solved then this process must be started at the level of public education.

The Side of Representatives of the Economy explained that it supports the initiated reform process of public education which, in the opinion of this side, progresses in the right direction.

The Side of Churches welcomed the reform of public education and the new Act on Public Education.

3. National Development Plan

The NGTT has been informed of the fact that the main objective of 2012 was to use the maximum possible proportion of European Union funding, and, in comparison to the period from 2007 to May 2010, the number of contracts concluded by the National Development Agency has increased by 181% since then. The information concerned challenging areas and addressed the necessity to strengthen the monitoring system.

The Side of NGOs explained that it is ready to co-operate in activities to be carried out for the purposes of realising the development goals.

The Side of Employees explained that there is a need for sustainable, valuable projects in all areas.

The Side of Representatives of the Economy supported the development goals.

In the opinion of the Side of Churches, the National Development Plan must give perspective to society, which serves the public good and can form a framework for certain short-term plans.

4. The situation of adult education

The report stressed that the aim of adult education is to satisfy the needs of the labour market, and achieve feedback on the individual well-being of people participating in adult education. It detailed the steps required for transforming the system in order to implement Life Long Learning and the importance of monitoring. The report addresses the reform of the accreditation system and the fact that the Regional Development and Training Committees are replaced by the Hungarian Development and Training Committees. A more important role is envisaged for the Hungarian Chamber of Commerce and Industry.

The Side of NGOs underlined the role of non-governmental organisations in adult education and stressed the importance of taking into account the interests of the non-governmental sector.

The Side of Employees underlined that it attaches much importance to adult education so the Side would like to contribute to the elaboration of related policy, and considers the essential role of the Chamber appropriate.

The Side of Representatives of Sciences agreed with the concept that the chambers of commerce should in future have a greater role in issues related to vocational training.

The Side of Representatives of the Economy welcomed the future co-operation between the Chamber and the government.

The Side of Churches appreciated the importance of adult education.

5. Flat tax rate and its social and economic effects

During the consultation, great emphasis has been placed on the idea that Hungary must have a competitive tax system, and representatives have been informed of the benefits available to

employees, particularly the changes to the Start card, the Start Plus card, the Start Extra card, the Start Bonus card, the benefit of FEOR 9 (Uniform Classification System of Occupations) and the Rehabilitation Card, the Career Bridge Programme, part-time employment, the wage compensation, and the compensation benefits regarding social contribution taxes.

The Side of NGOs agreed with the proposal and outlined the noticeable positive effects of a flat tax rate.

The Side of Employees explained that it considers a flat tax rate unjust and, in its opinion, the system has not lived up to expectations.

In the opinion of the Side of Representatives of Sciences, the new tax system has resulted in anomalies and unexpected side effects that must be analysed, and the revealed anomalies must be rectified.

In the opinion of the Side of Representatives of the Economy, the flat rate tax has a performance incentive effect on the economy.

According to the Side of Churches, it is in the long term interest of a society that people should not be dependent on benefits but live from their earnings.

6. Certain issues of sustainable development in light of the *Rio+20 global summit*

The NGTT has been informed of the fact that the National Institute for Environment together with the Ministry of Foreign Affairs and the Ministry of Rural Development participated in the preparation of the Rio+20 global summit, and has further been informed of the priorities of the position paper of Hungary and the current situation of preparation for the conference.

The Side of NGOs considered the topics to be discussed at the conference strategically important, and – in its opinion – they will be even more important in the future.

The Side of Employees has indicated that the social dimension of this issue is important for them. It its opinion, it is also positive that the institutional conditions required for dialogue related to the issue have been created. The Side considered the development of a common Hungarian position important.

The Side of Representative of Sciences drew attention to the fact that the long-term objectives pursued should be consistent with the short-term employment goals, since many jobs may be lost due to the introduction of environmental regulations.

The Side of Representatives of the Economy explained that it expects a strengthening of the tools of the green economy and best practices, and a boost in sustainable development.

The Side of Churches said that the churches consider environmental protection and sustainable development important. Under appropriate conditions, the Side of Churches always supports the strengthening of small- and medium-sized enterprises and the creation of an agriculture-based industry, because these can provide the impetus for the economy and decrease unemployment rates, furthermore it considers every initiative important which protects the rivers and the sustainable use of groundwater.

7. Strategic issues of higher education

The NGTT has been informed of the elaboration of the sectoral document on the directions of development policy for national higher education, and the preparation of four-year institutional development plans. According to the information, the factors forcing higher education reform can be separated into three main groups: factors arising from the economic crisis, the internal debt crisis and financial constraints, factors arising from social constraints and challenges and factors arising from competitiveness challenges. In view of this, the information summarises the opportunities for higher education reform and the risks of the process.

The Side of NGOs drew attention to the fact that every possible governmental intervention must be necessary and proportionate and must take due account of the risks and adverse effects to be abolished. Afterwards, the Side of NGOs described the factors they consider important when it comes to higher education planning.

In the opinion of the Side of Employees, it is the fundamental interest of Hungary that employees have as high a level of qualifications as possible in the future. The institutional system must be aligned with this requirement.

The Side of Representatives of Sciences considered the concept exceptionally good. In the opinion of this Side, the current state of the system can be attributed to many fiscal reasons, so the Side proposed a comparison of fiscal aspects with professional aspects.

The Side of Representatives of the Economy considered the draft a significant step. In its opinion, the draft tries to eliminate the negative aspects of the institutional system: parallel courses, fragmentation, the high number of higher education institutions.

The Side of Churches considered it important that the higher eduction development policy has set out the aim of increasing the level of education attainment and the intellectual and economic ascent of the nation.

8. Strategic issues of adult education

During the consultation, it was emphasised that the primary aim of adult education is to serve the needs of the economy by providing suitably qualified labour, and the effects of the Acts on vocational training and on the vocational training contribution adopted by the Parliament were discussed.

In the opinion of the Side of Representatives of Economy, the proposal of the government and the expectations of the economy strongly correspond with each other and significant resources will be used for vocational training purposes. It was outlined that the training must be close to the needs of economy and it was also stressed that economic players must have an influence on regulatory, operational and monitoring procedures.

The Side of NGOs drew attention to the potential of the non-governmental sector and requested that it should be taken into account when government decisions are prepared.

The Side of Employees has promised the proposer its support. It agreed with the proposer that social inclusion and vocational training should be two separate issues and welcomed the fact that the monitoring role of the government will increase with regard to quality and professional aspects. The Side supported the role of chambers of commerce and proposed the involvement of representative organisations of employers.

The Side of Representatives of Sciences stressed the relevance and importance of adult education and said that – in its view – the reforms regarding adult education were taking place in an appropriate way

In the opinion of the Side of Churches, adult education is of utmost importance both at an individual and a social level. It outlined that the adult education system must pay attention to providing jobs to disadvantaged people since their social inclusion can only be realised through appropriate training.

9. Current and strategic issues of pension scheme reform

The consultation dealt with the actual substance of the reform of the social security pension scheme and stressed that pensions must become the basis for the livelihoods of the elderly. Based on the legislative proposal, the method of calculating pensions will not be changed.

The Side of NGOs explained that only a pension scheme based on the principles of sustainability and solidarity is able to ensure comfort and security in old age.

In the opinion of the Side of Employees, the kind of benefits provided to pensioners by the pension scheme on a solidarity basis is a strategic issue. In the opinion of this Side, the abolishment of the early retirement pension scheme is acceptable within the framework of the pension scheme system, but it is necessary for this scheme to be replaced in some other form.

In the opinion of the Side of Representatives of Sciences, the increase in the retirement age is a strategic issue.

The Side of Representatives of Economy explained that the pension fund is currently in balance but that the retirement age must be determined.

The Side of Churches welcomed the effort of the government in that it mentions the concept of state pension and not self-provision. It considers a uniform retirement age important. In its opinion, a uniform retirement age can also strengthen solidarity in society.

10. General design principles of the 2013 budget and their economic and social justification

It has been outlined in the information that Hungary and the Hungarian public finances are stable with regard to financing, and there is no room for manoeuvre with regard to the state deficit and the decrease in state debt. The decrease in the state deficit will continue, which is linked to a decrease in state debt.

In the opinion of the Side of NGOs, the 2013 budget is based on a shift in investments and provides appropriate resources for this purpose, furthermore, the macroeconomic prognoses are favourable but, in its opinion, there has been no investment in non-governmental organisation capital.

The Side of Employees agreed with the fact that the labour supply has significantly grown due to different government actions; nevertheless, in its opinion, the economy is depressed, there is no labour demand and the budgetary estimates do not guarantee a change in this. This Side drew attention to the great efforts of trade unions in the last years not to let the increase in real wages significantly differ from productivity, neither in a negative nor in a positive direction. Based on economic performance, an increase in real wages will not be possible.

The Side of Representatives of Sciences suggested that the Government should postpone the removal of the rest of the super gross system until the economy recovers. This Side indicated that it considers the multiple taxation of banks a very risky economic move.

The Side of Representatives of Economy recommended an increase in the number of employees and the preservation of workplaces. Furthermore, it indicated that contributions on wages should be radically decreased. It explained that simplification of the taxation of micro-, small- and medium-sized enterprises should be a part of the process.

The Side of Churches agreed with government efforts that make the balance of public finances sustainable and put state debt on a downward trend

11. Situation and prospects of the Hungarian construction industry

The current situation of the construction industry and the government plans have been described in the information; it was stressed that the construction industry has been most heavily hit by the consequences of the economic crisis. The government is attempting to help the sector with the support of three major sets of measures: simplification of construction and

licensing procedures, measures for reducing chains of debt, and the elaboration of various development programmes.

The Side of NGOs explained that it considers the various development programmes the most important measure. In its opinion, great potential lies in enhancing the energy properties of existing buildings. The construction industry must have a uniform and economy-oriented administration. These measures may be appropriate to give a boost to investments and the construction industry, which is of utmost importance to the national economy.

In the opinion of the Side of Employees, the prosperity of the construction industry is closely linked with the functioning of the economy. The number of jobs has significantly decreased in this area.

The Side of Employees stressed the need to support the construction of rented accommodation, which would utilise the capacities of the construction industry and facilitate labour mobility. On the other hand, it also expressed that the thermal insulation and mechanical modernisation of old flats would be more important.

The Side of Representatives of Economy welcomed the decrease in the administrative burden. At the same time, it considered the reduction of chains of debt to be important. It stressed that financial service providers should be involved to mitigate the lack of capital. The introduction of works related to sustainable homes, renewable energies, and the renovation of public institutions would be justified, and the launch of a rented flat programme would be very important.

The Side of Churches proposed that the Government should also support smaller investments, not just large ones. It agrees with the tightening of public procurement rules.

12. The review of use of European Union resources and the planning of the use of resources for the next period between 2014-2020

The information addressed the Hungarian position in the negotiations with the European Union regarding the 2014-2020 period and stressed that Hungary would like to launch fewer operational programmes in the 2014-2020 period than in the current period, but that these operational programmes must fully cover all 11 thematic priorities. The completion of large infrastructure investments that have previously been started but still continue into the 2014-2020 period is an important planning aspect.

The Side of NGOs explained that the non-governmental sector would like to contribute to 100% use of resources in the future. It said that non-governmental organisations are able to mobilise social capital, which can contribute to society using the available resources efficiently.

The Side of Employees primarily considers spending which facilitates economic growth as appropriate in the future. In its opinion, the creation of new jobs and the preservation of existing ones should have higher priority than at present, and significant resources should be set aside for these purposes.

In the opinion of the Side of Representatives of Economy, much greater attention should be paid to the EU programmes stimulating the economy, because it would be important for these programmes to contribute to strengthening competitiveness and boosting employment in order to increase GDP. This Side also considered it important that the development and support of vocational training should be treated as a priority programme in the future.

The Side of Churches defined general principles with regard to EU financing (e.g. ecclesiastical legal persons are entitled to individually make a bid on every tender, the long-term sustainability of EU-financed projects) and listed specific areas in the case of which EU financing is required (e.g. renovation of art treasures, construction of community spaces, support for religious tourism).

13. On the National Energy Strategy and the future of nuclear power

The information stressed that the Energy Strategy has identified global, European and national trends that influence or constitute an adaptive pressure or a commitment to the implementation of the objectives of a national energy policy. Experts have come out on the side of a nuclear-coal-green energy combination when preparing the Energy Strategy because, in their opinion, this would ensure the security of energy supply in Hungary.

The Side of NGOs supported the preparation of the Energy Strategy and deemed it justified. Of the several action plans, it considered the awareness-raising action plan as essential because, in its opinion, a new attitude towards energy consumption should be developed among the public; to achieve this aim, non-governmental organisations and the non-governmental sector have offered their help and active participation.

The Side of Employees considered the elaboration of an Energy Strategy important, particularly with regard to energy supply. It highlighted the role of efficient energy consumption and energy saving.

In the opinion of the Side of Representatives of Economy, energy security and energy prices are issues of competitiveness with regard to the economy; accordingly, this Side considers it necessary to implement long-term energy planning, i.e. the elaboration of a National Energy Strategy.

The Side of Churches agreed with the previous opinions and supported making the most out of the available national resources and also pointed out the risks of modern technology.

14. Experiences of the period after the entry into force of the new Labour Code

The Side of Employees listed the problems encountered in the practical application of Act I of 2012 (hereinafter referred to as: Labour Code) i.e. reduction in the level of legal protection of the most vulnerable employees, reduction in the opportunity for collective protection, decrease in average wage, absentee pay. It has noted that the Labour Code must be consistent with the Fundamental Law and European Union legislation.

The Side of Representatives of Economy agreed with the content of the Labour Code and its adoption. It indicated that it is difficult to assess the impact of the Act on the economy only three-four months after its adoption. It stressed that an Act is needed which can be considered the "Constitution" of work and which enhances the competitiveness of the Hungarian economy. This Side believes that even if the Act has narrowed the rights of employees, they are not in an unacceptable or unfair situation.

The Side of Churches welcomed the news that the legislator is ready to deal with the effects of the Labour Code just a few months after its introduction. This Side indicated that it considers dialogue between Government and society important in this area.

In the opinion of the Side of NGOs, the Government had no other response to the current global phenomenon of unemployment than to create the Labour Code and thus adapt to the ever-changing socio-economic environment. It stated that according to noticeable, detectable and quantifiable employment data, the economy moved from a standstill, not just in the public employment sector but also in the primary labour market.

15. Government Decree on the allocation of a quota of students financed through government scholarships on the basis of higher education disciplines

The representatives have been informed during the consultation that the number of higher education places fully or partly financed through government scholarships is 53 640 persons. Of these, 31 340 persons are fully financed through government scholarships and 5 000 persons are partly financed through government scholarships, which includes higher educational vocational training, the Bachelor's programme and undivided Master's programme. 16 000 persons would like to start their Master's programme, and 1 300 persons would like to start their their PhD studies. When determining the 2013 higher education quota, the aim of the Government was to determine the number of students admissible to higher education places fully or partly financed through government scholarships in line with labour market demands, according to the priorities set out in the sectoral structure. During the reform, the aspect of sectoral governance was primarily based on quality and not on fiscal issues. The consultation addressed the reasons for quota changes in certain disciplines (e.g. demographic decrease).

In the opinion of the Side of NGOs, there has been a shift in government communication because the direction in the last twenty years was to increase quotas, which the government

has now reversed due to cost efficiency. The Side of NGOs recommended the involvement of the non-governmental sector in the decision-making process.

In the opinion of the Side of Representatives of Sciences, the dramatic decrease in the number of university courses in Law and Economics means that everybody will easily graduate in economics or social policy in 10 years. This Side considers the intention of the Government to impose selection acceptable.

In the opinion of the Side of Employees, higher education must be a system which provides suitably qualified employees to the labour market. This Side does not agree with the decrease in the quota.

The Side of Churches noted that the number of students financed through a government scholarship decreased by 7 000 in 2013 due to the economic crisis and also pointed out that higher education should not just benefit the individual but also society.

16. Minimum wage and guaranteed minimum wage in 2013

Information was given about the proposal, according to which the mandatory amount of minimum wage should rise to HUF 98 000 at least, and the monthly amount of the guaranteed gross minimum wage to HUF 114 000. The Government is aware of the fact that generating both the minimum amount of mandatory minimum wage and the guaranteed wage minimum is difficult in some sensitive sectors so it provided support to employees in relevant sectors in the first half of 2013. In addition, the Government maintains the system of wage compensation created due to the tax changes in 2012 with reasonable modifications in the private, non-profit (including religious activities) and public sectors in 2013.

The Side of NGOs agreed with and supported the rate of increase and thanked the parties for their willingness to compromise and the successful and beneficial catalytic role of the Government.

The Side of Employees noted that the wages of public sectors workers had not been valorised and that wage negotiations in the public sector had not yet finished.

The Side of Representatives of Economy supported the discussed mandatory minimum amount of minimum wage and guaranteed wage minimum and recommended it for adoption but the Side resented the fact that there had been no substantive consultation in the agricultural sector with regard to the minimum wage.

The Side of Churches welcomed the fact that the financial situation of people employed in minimum wage jobs will moderately improve due to the more than 5% increase in the minimum wage. It explained that the amount of the 2013 minimum wage affects the churches

both from the side of employers and employees. This Side considered the rate of increase acceptable and manageable but also indicated that a minimum wage which is higher than the determined amount would cause problems in the functioning of churches.

During the 2012 consultations, the Council did not formulate a uniform, agreed position, proposal or recommendation.

The national interest reconciliation forum of the competitive sector is the Permanent Consultative Forum of the Competitive Sector and the Government (hereafter: VKF), established by concluding the relevant agreement on 22 February 2012. VKF is a tripartite consultative, opinion-giving and proposal-making forum participating in the preparation of Government decisions directly affecting the competitive sector. VKF provides an institutional framework for employers and employees in the national competitive sector and for the Government to conduct regular discussions in order to maintain labour peace. The activity of the VKF does not influence the responsibilities and powers of the NGTT.

VKF aims to align the intentions of the workers' and employers' interest representation bodies in the competitive sector with those of the Government, develop agreements, exchange information, and discuss regulatory proposals.

To achieve these goals, the members of the VKF shall consult and discuss

a) the Government's regulatory concepts affecting the competitive sector regarding employment policy, labour market and income trends, including questions related to the transformation of the tax and duty system;
b) proposed Government measures affecting the wage of employees in the competitive sector (mandatory minimum wage, guaranteed wage minimum, wage recommendation);
c) draft regulations on labour law, vocational training, occupational health and safety and labour inspection;
d) the system of industrial relations;
e) draft regulations relating to work or financial benefits provided on the basis of work performed (jobseekers' allowance, social insurance, pension system) and proposed Government measures;
f) draft regulations relating to the establishment, operation and winding-up of businesses;
g) any other issues directly affecting the economic or social situation of employers or employees in the competitive sector that are considered important by the members.

The employers' negotiating group of the tripartite consultative, opinion-giving and proposal-making forum is constituted by three national employers' interest representation bodies, while the workers' negotiating group consists of three trade union confederations.

The members of the VKF include:
a) The Government of Hungary
b) Democratic League of Independent Trade Unions (LIGA Trade Unions)
c) National Confederation of Hungarian Trade Unions (MSZOSZ)
d) National Federation of Workers' Councils
e) National Federation of Consumer Co-operative Societies and Trade Associations (ÁFEOSZ-Coop Federation, KÉSZ)

f) Confederation of Hungarian Employers and Industrialists (MGYOSZ)
g) National Association of Entrepreneurs and Employers (VOSZ).

The main consultative forum of the VKF is the board meeting. Board meetings are held as necessary, but at least once every six calendar months. Board meetings are not public. With respect to the items of the agenda, the board meeting shall

a) conduct consultations;
b) express opinions;
c) accept recommendations by consensus;
d) make agreements as a result of the negotiations, with the consent of all members.

Members of the board meeting are the following:

a) the Prime Minister;
b) State Secretary in charge of employment policy;
c) head (president or vice president) of trade union organisations according to their charter;
d) head (president or vice president) of employers' organisations according to their charter;
e) head of the Monitoring Committee.

The work of the board meeting is assisted by the Monitoring Committee as a standing committee and special committees commissioned with specific tasks on a case-by-case basis.

Similarly to the OÉT Act, Act LXXIV of 2009 on sector-level dialogue committees and on certain issues of intermediate-level social dialogue (hereafter: ÁPB Act) entered into force on 20 August 2009, providing a basis for the institutional framework of sector-level dialogue.

Before 31 December 2009, **sector-level dialogue committees** operated on the basis of an agreement signed on 22 September 2004 entitled "Agreement on the conditions and procedures for the operation of sector-level dialogue committees in the period until the establishment of the regulatory framework". In the first quarter of 2010, sector-level dialogue committees (ÁPBs) were reorganised according to the ÁPB Act.

The ÁPB Act resulted in a significant improvement in sector-level social dialogue, taking into account the fact that the regulated establishment of the institutional system of sector-level social dialogue provides an appropriate basis for joint action by the employers' and workers' interest representation bodies for the development of a given sector, as well as for autonomous decision-making regarding the rules of conduct to be observed in the sector.

The sector-level dialogue committee (hereafter: ÁPB) is a body consisting of sector-level employers' interest representation bodies (hereafter: negotiating group of employers) and sector-level trade unions (hereafter: negotiating group of employees) conducting bilateral social dialogue on questions with a sector-wide relevance regarding industrial relations and employment relationships (Para. (2) of Section 2 of the ÁPB Act).

ÁPB is a bilateral forum: its members are employers' and employees' sector-level interest representation bodies. A basic principle for the operation of ÁPBs is to ensure that none of the relevant employers' or employees' organisations of a given sector is excluded from consultation, but, at the same time, more representative organisations with a larger number of supporters have decisive influence in decision-making or the conclusion of collective

agreements. Also, extended sector-level collective agreements should only be concluded with the agreement of the overwhelming majority of the sector.

Furthermore, the operation of the autonomous sector-level social dialogue helps Hungarian social partners find their way to European social dialogue institutions working in a similar structure, participate in European sector-level dialogue, and represent and protect their own peculiar interests directly through their European organisations.

The scope of the ÁPB Act covers the interest representation bodies of employers and employees that are subject to the Act on the Labour Code, and constitute the dialogue committee, the division-level, group-level and class-level dialogue committees, the rehabilitation dialogue committee, the Government bodies responsible for tasks related to the social dialogue, and the Council of Sector-Level Dialogue Committees (hereafter: ÁPBT). Furthermore, its scope was specifically extended to the dialogue committee of national economy sections as of 1 July 2012.

This system of the sector-level dialogue operates in the competitive sector. Exceptions are employers and their interest representation bodies that employ workers with reduced capacity to work as budgetary institutions. This is because such cases are subject to cross-sectoral social dialogue, where it is reasonable to ensure that the interests of all affected workers are represented.

ÁPB is responsible for promoting the well-balanced development of the sector, the implementation of sector-level autonomous social dialogue, with the aim of establishing appropriate working conditions, the maintenance of labour peace, and the facilitation of lawful labour-market processes (Section 3).

For the purposes of the ÁPB Act, social dialogue means bilateral communication between the social partners, including regular exchange of information, consultations, collective negotiations, the signing of agreements, as well as the development and implementation of joint policies (Para. (1) of Section 26).

When the ÁPB Act entered into effect, social dialogue committee was defined as follows: a bilateral forum established on the basis of this Act with the participation of employees' and workers' interest representation bodies, which may be a committee at the level of an activity division, group, class or occupation, or one affecting certain groups of employees. For the purposes of this Act, ÁPBs established in a sector with a code included in the statistical nomenclature of business activities (hereafter: TEÁOR) consisting of fewer digits are regarded as higher-level ÁPBs.

Para. (1) of Section 120 of Act CV of 2011 on the amendment of certain labour and other related acts for legal harmonisation purposes (hereafter: Módtv.) modified this definition as follows, with effect as of 1 August 2011:

"2. social dialogue committee shall mean a bilateral forum established on the basis of this Act with the participation of employees' and workers' interest representation bodies, which may operate to cover a section, a division, a group, a class or occupation or certain groups of employees. For the purposes of this Act, ÁPBs established in a section of the national economy or in a sector marked with a TEÁOR code of lines of business consisting of fewer digits are regarded as higher-level ÁPBs;"

As of July 1 2012, point a) of Para. (20) of Section 68 of the 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 (hereafter: Mth.) amended this definition by deleting the text "occupation".

When the ÁPB Act entered into effect, the concept of social partners meant employers' interest representation bodies and trade unions. Para. (14) of Section 68 of the Mth. borrowed the definition used by the new Act on the right of association as of 1 July 2012, and Para. (6) of Section 26 of the ÁPB Act was amended by defining *social partners* as employers' and workers' interest representation bodies and interest representation associations (Para. (6) of Section 26).

As of 1 July 2012, the ÁPB Act specifically stipulates, by designating sections of the national economy, that the social partners may conduct dialogue regarding issues related to industrial relations and employment relationships at the level of a national economy section or any activity division, group, class, or with respect to specific groups of employees. For this purpose, they may establish a bilateral social dialogue committee (Para. (1) of Section 2).

When the ÁPB Act entered into force, it stipulated that ÁPBs could be established at the level of an activity division, group or class. Only a single committee may be established in each activity division, group and class (Para. (3) of Section 2). This provision was amended by Para. (2) of Section 113 of Módtv. as of 1 August 2011 to ensure more flexibility. Accordingly, an ÁPB may be established for one or more national economy sections, activity divisions, groups, classes. Only a single committee may be established in each national economy section, activity division, group and class. The amendment aims to ensure that ÁPBT can cover several divisions or an entire section of national economy.

A division is an activity area indicated with a two-digit TEÁOR code, a group is an activity area indicated with a three-digit TEÁOR code, and a class is an activity area indicated with a four-digit TEÁOR code. Levels identified with fewer digits or letters must be regarded as higher levels (Section 9 of the ÁPB Act) *TEÁOR code:* a code of each activity according to the statistical classification of economic activities, indicated as the core activity of the enterprise (employer) at the registration court (Para. (8) of Section 26 of the ÁPB Act). As of 1 July 2012, Para. (15) of Section 68 of the Mth. included the definition of national economy sections, which are activity areas indicated with a one-digit TEÁOR code.

ÁPBs established at a lower level operate independently of higher-level ÁPBs and may not be instructed by higher-level ÁPBs with respect to the fulfilment of their tasks. Dialogue committees at group or class level are subject to the rules applicable to division-level ÁPBs as appropriate, unless otherwise provided in this Act (Para. (4) of Section 2 of the ÁPB Act). With respect to dialogue committees established at the level of a section of national economy, it was inserted, with effect as of 1 August 2011, that dialogue committees at group or class level or at the level of a section of national economy are subject to the rules applicable to division-level ÁPBs as appropriate, unless otherwise provided in this Act.

Furthermore, the ÁPB Act treats the creation of the Rehabilitation Dialogue Committee (hereafter: RPB) as a special forum, since the development of social dialogue between employees with reduced capacity to work and the interest representation bodies of their employers is an important societal interest. The RPB is a forum for bilateral social dialogue

between trade unions representing employees with reduced capacity to work and the interest representation bodies of employers employing workers with reduced capacity to work regarding industrial relations, employment relationships and employment in general (Para. (1) of Section 19).

A key principle for the operation of ÁPBs is open membership. Accordingly, after an ÁPB has been established, it may be joined by any sector-level interest representation body of employers or any sector-level trade union that meets the requirements set forth in this Act. As a prerequisite for joining, the sector-level interest representation body shall indicate its intention to the ÁPB and, along with the data necessary for certifying compliance with the membership requirements, to the Sectoral-level Committe for the Determination of Participants (hereafter: ÁRMB), and, accordingly, the ÁRMB shall determine the existence of entitlement (Section 10).

With the exception mentioned under Section 8, an ÁPB may be established by sector-level interest representation bodies of employers or sector-level trade unions belonging to the same sector, provided that they meet the requirements set forth under Sections 6-7 (Section 5).

For the purposes of this Act, an interest representation body or interest representation association is an organisation established according to the Act on the right of association,

a) whose primary function, as defined in its statutes, is the enhancement and protection of employees' interests related to their employment relationship (hereafter: trade union); or

b) whose primary functions, as defined in its statutes, include the protection and representation of employers' interests in connection with the employment relationship (Para. (1) of Section 6).

The ÁPB Act determines the general conditions for participation in ÁPBs and specifies under which circumstances workers' and employers' interest representation bodies can be regarded as sector-level:

An interest representation body is sector-level if, in addition to Para. (1), its activity is organised at a sector-wide level; and

a) its membership consists of employees or trade unions, or

b) employers or interest representation bodies of employers

(Para. (2) of Section 6).

The establishment of an ÁPB may be initiated by at least one sector-level interest representation body of employers and one trade union, provided that no ÁPB exists, and the establishment of an ÁPB has not been initiated yet, in the given sector (Para. (1) of Section 9). As of 1 July 2012, Para. (4) of Section 68 of the Mth. amended this provision to ease the conditions by stipulating that the prerequisite for initiating the establishment of an ÁPB is that its establishment has not been initiated over the past 6 months, instead of "has not been initiated yet".

Such initiations shall be published in the official journal of the minister, indicating the sector and the data of the initiators according to point b) of Para. (4). For thirty days after the date of publication, other interest representation bodies meeting the requirements set forth in this Act may also notify the initiators and the ÁRMB in writing of their intention to participate in the establishment. After the thirty-day deadline has expired, the initiator and the interest

representation bodies indicating their intention to participate agree on the establishment of the ÁPB (Para.s (2)-(3) of Section 9).

The establishment of the ÁPB is based on an agreement between the organisations within the framework of a public procedure. The agreement on the establishment of the ÁPB shall contain the following:

a) the corresponding statement;

b) a list of interest representation bodies constituting the negotiating groups of employers and workers, indicating their name, registered office, and the person authorised to represent them;

c) in accordance with Para. (1) of Section 13, the rules of procedure of the ÁPB; and

d) the signature of the representatives of the organisations (Para. (4) of Section 9).

Paragraph (c) of this provision was clarified by Para. (1) of Section 114 of Módtv., with effect as of 1 August 2011, by stipulating that the agreement on the establishment of the ÁPB shall contain a statement to the effect that the organisations establishing the ÁPB develop their own decision making procedures in accordance with Para. (1) of Section 13, or they request the corresponding procedure of the ÁRMB specified in Para. (2) of Section 21.

The interest representation bodies according to Para. (4) shall deliver

a) one original copy of the agreement to the minister and one copy to the ÁRMB simultaneously with the application requesting the implementation of the procedure described in point b) of Para. (1) of Section 21;

b) information on the interest representation bodies necessary for authorising participation in the ÁPB according to Sections 6-8 and, if a corresponding agreement does not exist, for determining the entitlements described in Para. (1) of Section 12, to the ÁRMB, simultaneously with the application requesting the implementation of the procedure described in point a) of Para. (1) of Section 21 (Para. (5) of Section 9).

The agreement delivered according to point a9 of Para. (5) shall be promptly published in the official journal of the minister (Para. (6) of Section 9). This provision was clarified by Para. (2) of Section 114 of Módtv. as of 1 August 20 by specifying a 60-day deadline for the submission of the application. Accordingly, if the interest representation bodies fail to send their agreement to the minister and to the ÁRMB, it shall be treated as null and void (Para. (6) of Section 9).

Furthermore, Para. (3) of Section 114 of Módtv. added the provision, with effect as of 1 August 2011, that agreement on the establishment of the ÁPB shall be null and void, and the application requesting the implementation of the ÁRMB procedure shall be rejected without substantive consideration if either of them has not been signed by *all* interest representation bodies initiating the establishment of the ÁPB or indicating their intention to participate (Para. (7) of Section 9). As a further addition, the provisions set forth in Para. (1)-(6) shall also be applicable whenever the activity area of an existing ÁPB is extended to a further section , division, group or class of the national economy (Para. (8) of Section 9).

The ÁPB shall be established on the date when the resolution of the ÁRMB according to point b) of Para. (1) of Section 21 becomes final and enforceable (Para. 9 of Section 9). The ÁRMB is a body consisting of six members with no criminal history and with extensive experience primarily in labour mediation and/or arbitration (Para. (1) of Section 22). Two members of the ÁRMB shall be delegated by the minister. The employers' and workers'

negotiating groups of the ÁPBT shall elect two more members of the ÁRMB each from among the candidates proposed by the members of the ÁPBT. Each member of the ÁPBT may propose a maximum of two candidates (Para.s (2)-(3) of Section 22).

Upon request, the ÁRMB determines whether the interest representation body meets the requirements for membership in the sector-level dialogue committee according to Sections 6-8, as well as the lawful establishment or termination of the ÁPB (Para. (1) of Section 21). If an agreement according to points (b)-(c) of Para. (1) of Section 13 does not exist, the ÁRMB determines the score awarded to the interest representation body with respect to the exercise of the entitlements described in Para. (1) of Section 12 (Para. (2) of Section 21). The ÁRMB shall pass a new resolution regarding these issues: after the expiry of five years from the date when the previous resolution became final and enforceable, and if the sector-level interest representation body whose legitimate interest is affected by the resolution so requests, then after the expiry of three years from the date when the previous resolution became final and enforceable (Para. (4) of Section 21). The latter provision was amended by Para. (1) of Section 118 of Módtv., with effect as of 1 August 2011, by adding a further category of cases, where the minister requests a review of compliance with Para. (2) of Section 17 in order to revise the resolution on the extension of the collective agreement.

The procedures of ÁRMB shall be subject to the rules set forth in the Ket., on the understanding that

a) the leader entitled to issue documents shall be the president elected by ÁRMB from among its members;

b) no reopening procedure may be launched as per Section 112 of the Ket.;

c) ÁRMB's decision may not be modified or annulled through a supervisory procedure according to Section 115 of the Ket.;

d) no legal remedy may be sought against ÁRMB's decision within an ordinary public administration procedure. The parties may only initiate the revision of the decision by the court in accordance with Para. (6) (Para. (5) of Section 21).

Módtv. clarified point (d) of Para. (5) of Section 21 by replacing reference to legal remedy with appeal in public administration procedures.

The sector-level interest representation body whose legitimate interest is affected by the resolution may lodge an appeal to the Budapest Labour Court against the resolution of the ÁRMB. The Court may override unlawful resolutions (Para. (6) of Section 21). After the entering into force of the ÁPB Act, the Act III of 1952 on the Code of civil procedure (hereinafter: Pp.) was amended accordingly by adding the provision that the labour court shall be competent in revising the decision on the establishment of the sector-level dialogue committee, participation therein, and the rights granted. In this respect, the labour court shall act according to the rules set forth in Chapter XX on administrative lawsuits (Para. (5) of Section 349 of the Pp.).

The ÁPB Act determines the interest representation bodies entitled to membership in ÁPBs and the detailed conditions for entitlement to membership in order to ensure that the ÁPBs consist of organisations with an appropriate weight within the sector.

Sector-level social dialogue may be attended by **employees' interest representation bodies** that

a) operate an organisation, with the right of representation according to their statutes, or have an official representative at a minimum of ten employers within the given sector, and the number of members in the relevant interest representation body working for the employers under an employment relationship reaches one per cent of the total number of employees working within the sector under an employment relationship; or
b) the number of members in the relevant interest representation body reaches ten per cent of the total number of employees working within the sector in an employment relationship at a minimum of three employers where the interest representation body operates an organisation, with the right of representation according to its statutes, or has an official representative; or
c) at the employers where it operates an organisation, with the right of representation according to its statutes, or has an official representative, the number of reduced votes acquired by its candidates reaches five per cent of the total number of employees working within the sector in an employment relationship at the last works council elections within three years before the application was submitted to the ÁRMB. In respect of this condition, the number of those working under an employment relationship for employers where a works council or a shop steward cannot be elected according to the law must be disregarded (Para. (1) of Section 7).

Sector-level social dialogue may be attended by those employers' interest representation bodies:

a) whose members, classified into the given sector according to their core business, employ at least five per cent of those working in the sector in an employment relationship; or
b) that have, or whose member organisations have, at least forty members classified into the given sector according to their core business (Para. (1) of Section 7).

If the activities of a sector-level interest representation body cover more than one-sector, it shall make declare how the data specified in Para. (1) are divided between the sectors, in accordance with its actual presence in the relevant sector. An interest representation body may be regarded as sector-level in those sectors where the divided data reach the level described in Para. (1) (Para. (2) of Section 7).

If an employer is a member of more than one employers' interest representation body, sector-level interest representation body, or an employers' interest representation body is a member of more than one sector-level interest representation body, they shall make declare the ratio according to which their data should be taken into account with respect to each employers' interest representation body. This rule shall also be applied as appropriate to trade unions that are members of more than one trade union association (Para. (3) of Section 7).

In addition to the provisions set forth in Para. (1)-(3), ÁPBs may consist of sector-level interest representation bodies that have been pursuing this activity for at least two years. This requirement is met if, in the case of

a) legal succession affecting the interest representation body, particularly restructuring, demerger, merger, or
b) establishment of an interest representation association,

at least one legal predecessor or member interest representation body has been pursuing this activity for a minimum of two years without interruptions immediately before the date of the legal succession or the establishment of the interest representation association (Para. (4) of Section 7).

As of 1 August 2011, Para. (5) of Section 7 of the Ápbtv was repealed, which stipulated that in case the requirement mentioned in Para. (4) is not met, an interest representation body may be member of the ÁPB if its membership is approved by all interest representation bodies participating in the establishment of the ÁPB meeting this requirement based on the resolution according to point a) of Para. (1) of Section 21 and all interest representation bodies that are members to the ÁPB. Para. (5) of Section 7 of the ÁPB Act has only been a transitional rule. This is because for two years after the effective date of the ÁPB Act, ÁPBs could also be joined by employers' organisations that were not specifically employers' interest representation bodies but participated in the social dialogue and were recognised and approved as members by all other organisations constituting the ÁPBs. The two-year period was enough for those organisations to transfer into an employers' interest representation body. Since ÁPBT addressed this issue at its plenary meetings, the organisations involved had been aware of the change already before the Act entered into force, so they had time to prepare. The repeal of Para. (5) of Section 7 resulted in the termination of one ÁPB (Gas Industry AlÁPB).

As part of the flexible membership conditions, interest representation bodies may enter into a coalition with one another in order to meet the requirements. In that case, they act jointly, as a single organisation, during the process of social dialogue. To meet the requirements of participation in the sector-level social dialogue, workers' and employers' interest representation bodies may enter into a coalition with one another (Para. (6) of Section 7). For the purposes of the ÁPB Act, *coalition* means an agreement between workers' or employers' interest representation bodies in order to ensure that their data are taken into account collectively with the aim of meeting the requirements for participation in the forums of bilateral sector-level social dialogue, as a result of which they act jointly, as a single organisation, in the process of social dialogue (Para. (11) of Section 26).

To prevent exclusion, the Act allows sector-level social dialogue even if the number of employers in a given sector is less than what is required for the establishment of an interest representation body (ten), or if the establishment of a social organisation failed, in spite of a demonstrable attempt, because the number of employers who wished to join fell short of that number. A precondition for the application of this rule is that the employers wishing to join the social organisation should employ at least 80% of those working within the sector in an employment relationship. Accordingly, when the ÁPB Act entered into force, Section 8 of the Act stipulated that, in derogation from Sections 6-7, employers, or groups of employers, employing eighty per cent of those working within the sector under an employment contract had the same rights as employers' interest representation bodies, provided that the establishment of an interest representation body demonstrably failed due to non-compliance with the requirement concerning the minimum number of founders according to the Act on the right of association.

As of 1 July 2012, Para. (3) of Section 68 of the Mth. amended Section 8 of the ÁPB Act in order to harmonise it with the new Act on the right of association. This was necessary because the new Act no longer specifies a minimum number of founders when establishing interest representation bodies. This regulation is included in Act IV of 1959 on the Civil Code (hereafter: Ptk.).

Accordingly, in derogation from Sections 6-7, Section 8 of the Act stipulated that, employers, or groups of employers, employing eighty per cent of those working within the sector under

an employment contract had the same rights as employers' interest representation bodies, provided that the establishment of an interest representation body demonstrably failed due to non-compliance with the requirement concerning the minimum number of founders set forth under special legislation.

An ÁPB can be freely joined, but the ÁPB Act specifies further conditions precedent to granting an ÁPB substantive rights. Accordingly, the weight in the given sector of an organisations which has the right to make decisions (vote), and is regarded as representative, should correspond to what is specified in the Annex to the ÁPB Act.

In the case of employees' interest representation bodies, this is evaluated based on the following criteria:

- result achieved at the most recent works council elections in the given sector;
- number of active trade union members;
- coverage by collective agreements;
- membership in the national employees' association participating in the employees' negotiating group in the OÉT;
- membership in the international employees' organisations of the sector (Annex 1 to the ÁPB Act).

Criteria for employers' interest representation bodies:

- number of those in an employment relationship with the business associations represented;
- annual net income of the business associations represented;
- number of members of the employers' interest representation body;
- coverage by collective agreements;
- membership in the national employers' association participating in the employers' negotiating group in the OÉT;
- membership in the international employers' organisations of the sector (Annex 2 to the ÁPB Act).

Based on these criteria, 100 points can be awarded to organisations both in the employers' negotiating group and in the employees' negotiating group, in a breakdown exactly specified by the Annex.

The ÁPB Act differentiates between three levels with respect to the entitlements of ÁPB members: advisory right, decision-making right and rights conditioned on representativeness. The Act refers to the criteria specified in its Annexes for the determination of advisory and decision-making rights. Entitlements may also be governed by an agreement of interest representation bodies, which may define different criteria.

Unless otherwise agreed, the members of the ÁPB shall have the following rights:

a) only an advisory right is granted to sector-level interest representation bodies, that (based on the criteria defined in *Annexes 1* and *2*) received less than 10 points, including the cases when an assessment according to the criteria defined in Annexes was not requested;

b) the right to make decisions (vote) is granted to sector-level interest representation bodies that (based on the criteria defined in *Annexes 1* and *2)* received at least 10 points (Para. (1) of Section 12).

The Act also determines the rules of sectoral representativeness. Sector-level trade unions and sector-level employers' interest representation bodies are representative if they have received at least 10 points in total for items 1-3 in Annex 1 and for items 1-4 in Annex 2, respectively (Para. (2) of Section 12).

The ÁPB addresses questions related to the situation, development and economic and labour-related processes of the sector. Within the ÁPB, the negotiating groups of the ÁPB and the interest representation bodies participating in them

a) provide information to one another;

b) conduct consultations;

c) issue a statement on the position, proposal of the ÁPB (Para. (1) of Section 4).

The parties within the ÁPB authorised by the provisions of this Act shall be entitled

a) to sign collective agreements or other agreements;

b) to request the minister in charge of social dialogue (hereafter: minister) to extend a collective agreement to the entire sector (Para. (2) of Section 4).

The state administration body competent in questions significantly affecting those working in the sector and the employers operating in the sector, as specified in Para. (1), shall provide information to the sectoral ÁPB and, at the ÁPB's initiative, conduct consultations (Para. (3) of Section 4).

For the purposes of the ÁPB Act, *agreement* means any document, particularly a position paper, a recommendation or an action programme, accepted by the members of the ÁPB, which may be reached as a result of negotiations or consultations (Para. (3) of Section 26).

Negotiation: harmonisation and discussion, where a decision is made subject to agreement within the forum, as stipulated by law or as agreed by the members of the ÁPB. Therefore, an agreement is required:

a) for the exercise of the right of concur granted to the ÁPB by law;

b) for joint decision-making (co-decision), as agreed in advance by the members of the ÁPB;

c) for formulating the ÁPB's recommendation or proposal for the person or body authorised to make a decision;

d) for signing a collective agreement (collective negotiation) (Para. (4) of Section 26).

Consultation means the exchange of opinions within the framework of social dialogue, a substantive discussion of relevant positions, which is not classified as negotiations; in a consultation, the authorised body or person may make a decision without an agreement (Para. (5) of Section 26).

The ÁPB determines the way it operates within the statutory framework. As part of that, the following must be set forth in writing: the consultation and decision-making procedures of the ÁPB, the rights granted to each negotiating group and member according to Section 12, the procedures for voting within each negotiating group, or the application of the voting procedure described in Para. (2), as well as the organisation and officials of the ÁPB (Para. (1) of Section 13).

Unless otherwise agreed by the parties regarding point c) of Para. (1), the position of a negotiating group shall be the one represented by the sector-level interest representation

bodies that jointly received two-thirds of the total score awarded to all sector-level interest representation bodies with a decision-making powers in the given negotiating group according to the criteria defined in Annex 1 and Annex 2 (Para. (2) of Section 13).

An ÁPB shall terminate if

a) its members agree on termination;

b) all sectors belonging to its area of activity are deleted from the TEÁOR;

c) the membership of all ÁPB members is terminated in one of the negotiating groups; or

d) in the case described in Section 8, the number of those working for the employer or employers falls below eighty per cent of those working in the sector under an employment contract (Para. (1) of Section 11).

The ÁPB membership of an interest representation body terminates if the interest representation body

a) terminates without a legal successor;

b) withdraws from the ÁPB;

c) terminates its interest representation activity in the given sector; or

d) fails to meet any of the requirements necessary for qualifying as an interest representation body or for participation in the ÁPB (Para. (2) of Section 11).

The termination of the ÁPB or membership therein is determined by ÁRMB. Termination takes place when the resolution of ÁRMB becomes final and enforceable (Para. (3) of Section 11).

With respect to the RPB, the rules pertaining to the ÁPB shall be applied, as appropriate, to the RPB according to Para. (2) of Section 19 of the ÁPB Act, except for Sections 14-18. In derogation from that, agreements may be signed in the RPB according to point a) of Para. (1) of Section 14. With effect as of 1 August 2011, Section 116 of Módtv. clarified the scope of authority of the RPB, adding that it may not sign sector-level collective agreements as its activity covers more than one sector. Accordingly, the RPB shall be subject to the rules pertaining to the ÁPB as appropriate, with the exception of Para. (2) of Section 12 and Sections 14-18. In derogation from that, agreements may be signed in the RPB according to point a) of Para. (1) of Section 14 (Para. (2) of Section 19).

The rules for extending a collective agreement are described under Para. (2) of Article 6.

The ÁPBT is governed by Section 20 of the ÁPB Act The ÁPBT is a tripartite body consisting of the representatives of the minister and the employees' and employers' negotiating groups of sector-level dialogue committees. It is to provide an institutional framework for performing the coordination activity necessary for the operation of the ÁPBs (Para. (1) of Section 20).

As part of this responsibility, the negotiating groups of the ÁPBT

a) provide information to one another;

b) may express opinions;

c) may make proposals;

d) may issue statements (Para. (1) of Section 20).

The ÁPBT shall

a) establish its statutes concerning procedures for decision-making, organisation and operation, as well as the work plan of the ÁPBT;
b) conduct consultations on procedures for financing the bilateral autonomous dialogue;
c) based on the procedure specified under Section 22, make a proposal to the minister regarding the person of ÁRMB members (Para. (2) of Section 20).

The ÁPBT consists of a representative delegated by the employees' and employers' negotiating groups of the ÁPBs in each sector and the representatives of the minister. The negotiating groups of ÁPBs establish their own procedures for delegating and removing the persons constituting the given negotiating group (Para. (3) of Section 20).

According to Para. (4) of Section 20 of the ÁPB Act, if there are ÁPBs at multiple levels within a sector, the right described in Para. (3) shall be granted to the highest-level ÁPB. If there are several group- or class-level ÁPBs within a sector without a division-level ÁPB, the group-level ÁPBs, if there is no group-level ÁPB either, the class-level ÁPBs shall jointly delegate a representative. If there were ÁPBs at multiple levels within a sector, and the ÁPB holding the right specified in Para. (2) has been terminated, the ÁPBT membership of the representative delegated by it shall also be terminated, and a new representative shall be elected by appropriately applying Para.s (3)-(4) (Para. (5) of Section 20).

The para (4) and (5) of the ÁPB Act were clarified by Section 117 of Módtv. as of 1 August 2011 as follows:

"If there are ÁPBs at multiple levels within a section of national economy, the right described in Para. (3) shall be granted to the highest-level ÁPB. If there is more than one ÁPB at a certain level, these ÁPBs shall jointly delegate a representative (Para. (4) of Section 20)."

In the case described in Para. (4), if the highest-level ÁPB has been terminated, the ÁPBT membership of the representative delegated by it shall also be terminated, and a new representative shall be elected by appropriately applying Para. (3)-(4) (Para. (5) of Section 20).

The fulfilment of the administrative tasks of the ÁPBT shall be arranged for by the minister (Para. (6) of Section 20).

Operational conditions for social dialogue

According to the rules promoting the operation of ÁPBs, the conditions of operation may only be established for an ÁPB if it was created in accordance with the applicable regulations, and this fact was established by ÁRMB in a resolution.

The minister shall
a) support the realisation of the professional programmes of the ÁPBs;
b) facilitate the performance of administrative, management, financial and information activities related to the operation of the ÁPBs;
c) provide the background of infrastructure for the functioning of ÁPBs and the ÁPBT;
d) ensure the operation of the ÁRMB, including the personnel required for the performance of the administrative and technical tasks necessary for the operation of the ÁRMB (Para. (1) of Section 25).

These forms of support shall be provided to an ÁPB recognised through a final and enforceable decision of the ÁRMB made according to point b) of Para. (1) of Section 21 (Para. (2) of Section 25).

The source for the supporting realisation of the professional programmes of the ÁPBs shall be the Labour Market Fund, amounting to 0.08% of the contributions actually paid by employers and workers in the second year before the year in question (Para. (3) of Section 25). In this respect, Para. (13) of Section 68 of the Mth. modified Para. (3) of Section 25 of the ÁPB Act, with effect from 1 July 2012, by stipulating that the source and amount of this support shall be determined by the budget approved in the chapter of the Act on the central budget regarding the ministry led by the minister in charge of sector-level social dialogue.

The detailed rules for the issues regulated in the ÁPB Act are summarised in Decree 22/2009 (IX. 30.) by the Minister of Social Affairs and Labour on the implementation of Act LXXIV of 2009 on sector-level dialogue committees and on certain issues of intermediate-level social dialogue, which entered into effect on 1 October 2009.

B. Provisions on public servants

The rules for sector-level and regional reconciliation of interests were changed substantially by Act XXXIII of 1992 on the legal status of public servants (hereafter: Kjt.). As of 1 July 2012, Mth. modified Sections 6-6/B of the Kjt. as follows:

With respect to labour affairs and questions in connection with the legal relationship of public servants

a) in the context of issues relevant for an entire sector, the minister in charge of the sector (hereafter: minister) shall consult the representative trade unions of the relevant division, group or class with the involvement of the national interest representation bodies of local governments in the National Labour Council of Public Servants (hereafter: KOMT) or another sector-level interest reconciliation forum according to Para. (6);
b) in the context of issues relevant for a region (county) and, more specifically, for the legal relationship of public servants in various sectors, the operator shall consult with the representative trade unions of the given region or settlement in an operator-level interest reconciliation forum(Para. (1) of Section 6 of the Kjt.).

Based on the above, the Act provides two opportunities for the minister to conduct the sector-level reconciliation of interests: he or she may establish dedicated sector-level interest reconciliation forums, or he or she may conduct the sector-level reconciliation of interests within the KOMT. The regional and sector-level reconciliation of interests is performed by the maintaining entity (a local government or a state body) with respect to the institutions operated by it.

The minister requests the organisations participating in the sector-level interest reconciliation forum, established based on point a) of Para. (1) or based on Para. (6), to express an opinion on the following:

a) drafts of decisions affecting the employment of civil servants belonging to the given division (group, class);

b) proposals related to labour regulations or rules of moving up in the remuneration system of civil servants in the given division (group, class) (Para. (2) of Section 6 of the Kjt.).

Prior to its decision, the operator shall request the forum established on the basis of point b) of Para. (1) to express an opinion on the following:

a) the budget serving as a financial basis for moving up in the remuneration system of civil servants; and
b) drafts of measures affecting larger groups or sector-specific groups of civil servants (Para. (3) of Section 6 of the Kjt.). These drafts shall be sent to the trade unions with the right to give an opinion at least fifteen days before a final decision is made (Para. (4) of Section 6 of the Kjt.). The operator shall be responsible for establishing and operating the forums mentioned in point b) of Para. (1), as well as for providing objective and material conditions for their work. The interest reconciliation forums establish their own rules of operation through negotiations (Para. (7) of Section 6 of the Kjt.).

In derogation from point a) of Para. (1), if there is no local authority that maintains institutions in the given division (group, class), it is not mandatory to involve the local governments' interest representation bodies (Para. (5) of Section 6 of the Kjt.). The minister may, depending on the specificities of the given section, establish other forums of portfolio-based section-level social dialogue within a division (group, class), in addition to the ones described in point a) of Para. (1) (sector-level interest reconciliation forum). If that occurs, labour affairs and questions in connection with the legal relationship of civil servants shall be discussed in the sector-level interest reconciliation forum. It shall be ensured, taking into consideration the provisions of Para. (5), that the sector-level interest reconciliation forum incorporates local governments' interest representation bodies, the budgetary institutions concerned, the professional interest representation bodies of the sector, and the most important and most representative trade unions, and their right to give an opinion and conduct consultations shall be enforced (Para. (6) of Section 6 of the Kjt.).

To ensure compliance with the Labour Code, Para. (4) of Section 26 of the Mth. amended the criteria of representativeness in Section 6/A of the Kjt.:

"6/A. § (1) The rights specified in Sections 5-6 shall be exercised by the trade union that is representative in the given area.

(2) A trade unions is representative in a given region (county) provided that

a) the number of civil servant members reaches 10% of the number of public servants working for the employers run by the operator at regional (county) or settlement level; or

b) the number of civil servant members reaches 10% of the number of public servants in the given sector working for the employers run by the operator at regional (county) or settlement level; or

c) they are representative at a minimum of 20% of the controlled employers, in at least one sector.

(3) A trade union is representative in a given division (group, class) in case the number of civil servant members reaches 10% of the number of public servants in the given division (group, class).

(4) At country level, a national trade union confederation is representative in case it incorporates at least three representative sector-level trade unions, and its member organisations represent at least 5% of public servants.

(5) In case of a dispute regarding representativeness, the procedure described in Section 289 of the Labour Code shall be followed."

Furthermore, as of 1 July 2012, Para. (4) of Section 26 of the Mth. modified Section 6/B of the Kjt. as follows:

The representation of a public servant who is member of the National Body of Law Enforcement Agencies shall be governed, instead of the provisions set forth in Sections 6-6/A and Sections 270-275 of the Labour Code, by the rules pertaining to the trade union representation of those employed in an official service relationship. Act XXIX of 1991 on the voluntary nature of employees' payment of membership fees in a representative organisation shall not be applied to trade unions representing the armed forces. The relevant organisation shall deduct membership fees from the remuneration of civil servants based on an agreement signed with the public servant.

Furthermore, as of 12 March 2011, Government Decree 48/2005 (III. 23.) on the determination of the representativeness of trade unions operating at employers subject to Act XXXIII of 1992 on the legal status of civil servants was repealed, and replaced by Government Decree 24/2011 (III. 9.) on the determination of the representativeness of trade unions operating at employers subject to Kjt..

C. Provisions on public officials

The interest reconciliation of public officials is organised on two levels, therefore the central and workplace interest reconciliation should be distinguished. The head of the state administrative body and the elected official of the trade union also participate in the workplace interest reconciliation but the negotiating partners have the right to involve experts in the settlement of disputes.

Until 29 February 2012, Articles 65 -66/B of Act XXIII of 1992 on the legal status of public servants (hereinafter: Ktv.) and Section 29 of Act LVIII of 2010 on the legal status of government officials (hereinafter: Ktjv.) have included the rules of interest reconciliation of public servants and government officials with regard to workplace interest reconciliation. Parallel to the Ktv., Section 29 of the Ktjv. has included the provisions regarding in particular the central interest reconciliation within the Interest Reconciliation Council of Public Servants (hereinafter referred to as: KÉT).

Pursuant to Para. (2) of Section 65/C of the Ktv., and Para. (2) of Section 29 of the Ktjv., the National Interest Reconciliation Council of Public Servants of Local Governments (hereinafter: OÖKÉT) and the KÉT have had the right to consult on the following issues related to living, working and employment conditions of civil servants and government officials: provisions related to the legal relationship of government service and public service, provisions of the central and social security budget related to employees in public service legal relationships and issues related to the management of administrative labour force and personal allowances.

From 1 March 2012, Sections 195-202 of Act CXCIX of 2011 on Public Officials (hereinafter: Kttv.) has included uniform rules on central and workplace interest reconciliation regarding public officials (and also government officials and civil servants). For the purposes

of unification, Sections 198-199 of the Kttv. have abolished the OÖKÉT and KÉT as forums for central interest reconciliation, because there have been unjustified simultaneous consultations on several occasions on the same topics in the two forums, and the KÉT has been organised on a non-tripartite basis. However, by merging the two interest reconciliation forums, the Kttv. has established the Interest Reconciliation Forum for Public Servants (hereinafter: KÉF), the purpose of which is to accommodate the interests of public administrative bodies and public officials, settle disputes in a negotiated way and reach appropriate agreements with the participation of the Government, the representative organisations of national local governments and the negotiating team of the national representative organisations of government officials and civil servants. Point (b) of Para. (1) of Section 196 of the Kttv. has explicitly specified the concept of consultation, which is the exchange of views and dialogue between the employer and the trade union. In addition it stipulates that, in the interest of reaching an agreement, the consultation shall be carried out in a way which is compatible with the purpose indicated in the initiative and ensures appropriate representation of the parties, the direct and personal exchange of views and substantive negotiations.

From 1 March 2012, pursuant to Section 198 of the Kttv., within the central interest reconciliation, the consultation rights of KÉF include, of the topics regarding the living, working and employment conditions of government officials and civil servants, issues related to the management of the administrative labour force and personal allowances. It is entitled to request information and make proposals on every other issue concerning the living, working and employment conditions of government officials.

Pursuant to Section 199 of the Kttv., the National Public Service Interest Reconciliation Council (hereinafter: OKÉT) is the central interest reconciliation forum of public officials in addition to public servants and professional members of law enforcement organisations.

2) Measures taken in order to enforce the laws

A detailed report is given on the functioning of ÁPBs in paragraph 2 of Article 6.

With effect from 22 July 2011, the OÉT, as the forum for national interest reconciliation, has been replaced by the NGTT, to which churches, non-governmental organisations, various chambers of industry and commerce and representatives of sciences have been added, thus making national reconciliation possible on a broader participatory basis.

The role of the OKÉT has not changed with regard to interest reconciliation of the public sector, but its powers have increased. The OKÉT and KÉF meet on a quarterly basis, mainly on the initiative of the government or a trade union. The initiatives of trade unions are primarily aimed at improving the income situation and strengthening the social benefits of public service employees, while the initiative of the government is primarily aimed at negotiating the proposals related to the preparation of legislation. In previous years, agreements and co-operations have taken place on the following major topics with regard to the OKÉT and KÉF: issuance of wage recommendations (wage compensation), co-operation in developing the system of townships, training of government service desk administrators. In addition, co-operation has taken place between the social partners with regard to managing collective dismissal.

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. Employment-related provisions

I. The former Labour Code

In the reporting period, the former Labour Code was amended with respect to the rules for concluding collective agreements as follows:

To ensure compliance with ÁPB Act, a reference provision was added to the former Labour Code as of 20 August 2009, stipulating that the establishment of the collective agreements concluded in sector-level dialogue committees and the extension of such collective agreements to an entire sector shall be governed by special legislation (Para. (2) of Section 31 of the former Labour Code). For the same reason, Sections 34 and 35 of the former Labour Code regulating the extension of collective agreements to an entire sector, as well as reference to Section 34 of the former Labour Code in Para. (1) of Section 36 were repealed, and Section 41/A of the former Labour Code on the announcement of collective agreements was amended. Accordingly, the parties shall submit notification upon any modification of a collective agreement that involves extension to a whole sector, the termination of such an extension, or any of the provisions of Section 36 (the scope of the collective agreement) (pointc) of Para. (1) of Section 41/A of the former Labour Code).

II. The new Labour Code

The following aspects of the Labour Code must be emphasised with respect to the regulation of collective agreements:

When the Labour Code was created, the key objectives of the legislator were to reinforce the regulatory function of collective agreements, and to shift focus on sector-level (occupational) collective agreements instead of the current employer-level agreements. The Labour Code aims at establishing a mutual interest in the conclusion of collective agreements and, furthermore, the extension of their scope, resulting in higher coverage.

Collective labour law provisions were re-regulated in a transparent manner, providing significantly more freedom to the parties during the negotiations and more possibilities for collective regulatory autonomy. Besides, it encourages the regulatory role of collective legal subjects. Along these new principles of legal policy, the parties may derogate from the

provisions of the Act in the collective agreement without limitation, with a few exceptions. This regulatory approach results in a significant increase in the role and influence of employers (employers' interest representation bodies) and trade unions in the labour-market.

Compared to the previous regulation, the Labour Code simplified the conditions of competence to conclude collective agreements. In comparison with the previous regulation, the Labour Code applies uniform principles to determine whether trade unions are entitled to conclude collective agreements above the level of employers and for collective agreements signed with the employer. The competence to conclude collective agreements is regulated by Section 276 of the Labour Code.

According to Section 276 of the Labour Code, collective agreements may be concluded:

- by employers' interest representation bodies;
- by an employer;
- by more than one employer;
- by trade unions;
- by trade union associations.

The competence of employers and employers' interest representation bodies to conclude collective agreements

The Labour Code does not set forth any special provision regarding the competence of employers to conclude collective agreements. An employer is inherently entitled to conclude collective agreements. The Labour Code maintained the rule of "one employer - one collective agreement". Accordingly, an employer may enter into one collective agreement (Para. (5) of Section 276, 1st sentence).

In addition, the Labour Code also contains provisions on collective agreements concluded by more than one employer, when the employers independently sign identical collective agreements with the trade union(s) that has (have) the competence to enter into collective agreements. According to Para. (5) of Section 276 of the Labour Code, the employer may simultaneously be a party to collective agreements that have been concluded by several employers and also to ones concluded by it exclusively, with a scope covering only that specific employer. The Labour Code defines the hierarchy of collective agreements in this respect.

If a collective agreement is concluded by more than one employer, an employer may on the basis of an authorisation granted in that agreement conclude a collective agreement covering itself (para. (5) of Section 276 of the Labour Code, 1st sentence). In derogation from the earlier regulation, the Labour Code provides that in case a collective agreement is concluded by more than one employer, the employer may, on the basis of authorisation granted in that agreement, conclude a collective agreement covering itself. For the purposes of Para. (4) of Section 277, collective agreements concluded by more than one employer shall be regarded as having a wider scope (Para. (5) of Section 276 of the Labour Code, 1st sentence).

Collective agreements may be concluded by employers, and by employers interest groups upon an authorisation of their members (point a) of Para. (1) of Section 276). The competence of an employers' interest representation organisation to conclude collective agreements is subject to the authorisation granted by its members. The legal form of authorisation is a

provision to that effect in the statutes. The Labour Code does not set forth any additional provisions in this respect. Further regulations may be determined by the interest representation organisation itself in its statutes, based on organisational and operational autonomy. The rules for granting authorisation may not be in conflict with the Labour Code.

When interpreting this provision, provisions on the personal scope of the collective agreement must also be taken into account. According to Paragraph (b) of Para. (1) of Section 279, the effect of a collective agreement shall apply to any employer who is a member of the employers interest group that concluded the collective agreement. As a consequence, taking into consideration point b) of Para. (1) of Section 279, the personal scope of a collective agreement concluded by an interest representation body covers the members ex lege, based on the members' authorisation according to point a) of Para. (1) of Section 276 of the Labour Code. Point b) of Para. (1) of Section 279 of the Labour Code extends the personal scope of the collective agreement to all members by operation of law. According to Section 283 of the Labour Code, no derogation is allowed from the provisions of either Section 276 or Section 279 of the Labour Code.

Capacity of the trade unions to conclude collective agreements

According to point b) of Para. (1) of Section 276, collective agreements may be concluded by trade unions and trade union associations (Para. (1) of Section 276). In contrast to Sections 32-33 of the former Labour Code, the Labour Code defines the rules regarding the capacity to conclude collective agreements in a much more straightforward way.

As an important change, the preconditions for the capacity to concluding collective agreements is not linked to works council elections, the Labour Code introduced what is known as a **10% threshold**. According to Paragraph (a) of Para. (2) of Section 276, a trade union shall not be entitled to conclude a collective agreement if its membership does not reach 10 per cent.

A trade union shall be entitled to conclude a collective agreement if its membership reaches ten per cent:

- of all workers employed by the employer;
- of the number of workers covered by the collective agreement concluded by the employers interest group

(Para. (2) of Section 276).

In the application of this provision, the statistical average number of employees during the six months period up to the date of concluding the agreement shall be taken into consideration (Para. (6) of Section 276).

If more than one trade union active at an employer meets the subjective requirements set out in Para. (2) of Section 276 of the Labour Code, the trade unions with the capacity to enter into collective agreements may conclude the collective agreement jointly (Para. (4) of Section 276). The same rule applies if, at the time of concluding the sector-level/sub-sector-level collective agreement, the requirement concerning the number and organisation of employees subject to a collective agreement is met by more than one trade union. Pursuant to the rule of collectivity, the legal statement regarding the conclusion of the collective agreement shall only be valid with the signatures of all trade unions.

Any trade union (trade union association) that meets the requirements set out in Para. (2) after the collective agreement is concluded may request an amendment of the collective agreement, and may participate in the negotiations relating to the amendment in an advisory capacity (Para. (8) of Section 276).

Para. (3) of Section 276 of the Labour Code on the capacity of trade union associations to conclude collective agreements is a new provision, aiming to ensure the entitlement of trade union associations to sign collective agreements directly with the employer. A trade union association shall be entitled to conclude a collective agreement if at least one of its local trade union branches represented at the employer meets the requirements set out in Para. (2), and its member organisations authorise it to do so.

In view of the change in the rules governing the capacity to conclude a collective agreement, the period between 1 July 2012 and 31 December 2012 is subject to a transitional rule. Accordingly, a collective agreement shall los force and effect as of 1 January 2013 if the trade union(s) or trade union association(s) concluding it is/are not entitled to conclude a collective agreement according to Para. (2)-(3) of Section 276 of the Labour Code. The number of members on 1 January 2012 shall be taken into account for determining the entitlement to enter into an agreement (Para. (1) of Section 15 of the Mth.). As regards collective agreements concluded by more than one trade union, Para. (1) shall be applied if, based on Para. (2) of Section 276 of the Labour Code, none of the trade unions is entitled to sign a collective agreement. Consequently, if it is found after 1 July 2012 that a signatory trade union fails to meet the 10% requirement regarding the capacity to sign a collective agreement, and it was the only signatory from the employees' negotiating group, the collective agreement shall terminate as of 1 January 2013 according to Section 15 of the Mth.

The rules on offers made for the conclusion of a collective agreement represent a further change regarding the provisions of the Labour Code on concluding collective agreements. The Act does not limit the right to make offers, nor does it restrict the related obligation to negotiate; negotiations may not be refused. According to Para. (7) of Section 276, entering into negotiations upon an offer for the conclusion of a collective agreement may not be refused. The Labour Code does not set forth the rules of procedure for concluding collective agreements. The conclusion of collective agreements shall be governed by the general rules for concluding contracts. In accordance with Section 14 of the Labour Code, collective agreements are made by mutual and concurrent representations of the parties.

Collective agreements may only be concluded in writing (Section 278). Collective agreements concluded in violation of the formal requirements (e.g. orally) are invalid.

The parties concluding a collective agreement may make comprehensive agreements within the limits of the Labour Code. With the exception of the guaranteed standards specified by the Labour Code, a collective agreement may derogate from the legal standards to the benefit of the employee, but also to the detriment of the employee, taking into consideration the provisions under "entire agreement". If the provisions under "entire agreement" do not indicate any specific provision, the following principle must be applied, depending on whether the issue needs to be regulated by the collective agreement or an agreement of the parties:

In the case of regulation through a collective agreement, the relevant provision is of a dispositive nature, and the parties may derogate from it in the collective agreement to the

benefit or to the detriment of employees. Therefore, it must be carefully considered under the given circumstances whether and to what extent the derogation complies with the law.

According to Para. (2) of Section 277 of the Labour Code, *in the absence of an agreement to the contrary*, derogations from the provisions of Part Two and Part Three are allowed in the collective agreement.

A further limitation applies to derogations from the provisions on industrial relations according to Para. (3) of Section 277 of the Labour Code. According to this limitation, collective agreements may not contain derogations from Chapters XIX and XX, and may not contain any restrictions concerning the provisions contained in Sections 271-272.

Furthermore, when derogating from the provisions of the Labour Code, it must be taken into consideration that a collective agreement of limited scope and effect may derogate from one with a broader scope, unless otherwise provided therein, provided it contains more favourable regulations for the employees (Para. (4) of Section 277 of the Labour Code). Derogations for the benefit of employees shall be adjudged by a comparative assessment of related provisions (Para. (5) of Section 277 of the Labour Code).

Para. (1) of Section 277 of the Labour Code contains the following provision on the content of collective agreements, essentially similarly to the former regulation:

The scope of collective agreements may cover:

a) rights and obligations arising out of or in connection with employment relationships;
b) conduct of the parties relating to the conclusion, implementation and termination of the collective agreement, and concerning the exercise of their rights and obligations.

As for the scope of collective agreements, the Labour Code contains detailed provisions on the personal scope as follows:

The effect of a collective agreement shall apply to any employer who:

a) is a party to the collective agreement; or
b) is a member of the employers' interest group that concluded the collective agreement (Para. (1) of Section 279).

The effect of the provisions of the collective agreement governing the means of communication between the parties shall apply to the signatories of the collective agreement (Para. (2) of Section 279). The effect of the provisions of the collective agreement governing employment relationships shall apply to all the workers employed by the employer (Para. (3) of Section 279). Unless otherwise agreed, in the case of employment relationships established by more than one employer, the employee shall be subject to the collective agreement concluded by the employer according to Para. (2) of Section 195 (Para. (4) of Section 279).

The termination of collective agreements shall be subject to the following rules:

Collective agreements may be terminated by giving at least three months' notice. A collective agreement concluded by more than one trade union may be terminated by either of those trade unions (Para. (1) of Section 280).

Neither of the parties shall be entitled to exercise the right of termination within six months of the conclusion of a collective agreement (Para. (2) of Section 280). A fixed-term collective agreement shall terminate upon the expiry of the fixed term (Para. (3) of Section 280).

Upon the dissolution of an employer, an employers' interest group or a trade union (a trade union association) without succession, its collective agreements shall be terminated as well (Para. (1) of Section 281). As regards a collective agreement concluded by more than one employer or by more than one employers' interest group, it shall cease to apply only to the employer or employers' interest group terminated without succession (Para. (2) of Section 281). As regards a collective agreement concluded by more than one trade union, it shall cease to apply upon the dissolution of all of the signatory trade unions without succession (Para. (3) of Section 281).

A collective agreement shall cease to apply if the signatory trade union (trade union association) is not entitled to conclude collective agreements on the basis on Para. (2)-(3) of Section 276 (Para. (4) of Section 281). As regards collective agreements concluded by more than one trade union, this provision shall apply if, based on Para. (2) of Section 276, none of the trade unions is entitled to sign a collective agreement (Para. (5) of Section 281).

A change in the employer is subject to special rules under the Labour Code as follows:

When employees are transferred to a new employer, the receiving new employer is obliged to maintain the working conditions specified in the collective agreement in respect of employment relationships after for a period of one year after the date of transfer (Para. (1) of Section 282).
The obligation referred to in Para. (1) shall not apply to the employer if the collective agreement expires within a year after the date of transfer, or if employment relationships are covered by a collective agreement after the date of transfer (Para. (2) of Section 282).

With respect to Chapter XXII on collective agreements, under "Entire agreement, authorisations", Section 283 of the Labour Code allows no derogation from the provisions of that Chapter, with the exception of Para. (4) of Section 279 and Para.s (1) and (3) of Section 280.

Sections 14-16 of the ÁPB Act shall apply to agreements made in the sector-level dialogue committee and the conclusion of collective agreements.

From among the agreements that may be made by the parties to an ÁPB, the Act defines the detailed rules for collective agreements concluded in the ÁPB. It defines, in a four-step procedure, the members' rights at the time of entering into the agreement, as well as the personal scope of the collective agreement determined on the employer's side.

The ÁPB may sign agreements or conduct collective negotiations in order to draw up a collective agreement, in accordance with the rules set forth in the Labour Code and in this Act (Para. (1) of Section 14).

When the ÁPB Act entered into force, it stipulated that only one collective agreement may be signed in the ÁPB for a division, group or class of activities. As of 1 July 2012, this provision was amended by Para. (5) of Section 68 of the Mth. by stipulating that only one collective

agreement may be signed in the ÁPB at a given level for a section of national economy or a division, group or class of activities.

All members of the ÁPB in an advisory capacity may attend the negotiations for the conclusion of the collective agreement (Para. (3) of Section 14). The interest representation body shall be entitled to conclude a collective agreement in the ÁPB if it is authorised to do so by its statutes or its supreme decision-making body. An employer may authorise only one of its interest representation bodies to conclude a collective agreement (Para. (4) of Section 14). All interest representation bodies participating in each negotiating group of the ÁPB shall be jointly entitled to conclude a collective agreement in the ÁPB (Para. (5) of Section 14).

If a collective agreement may not be concluded on the basis of Para. (5), it shall be concluded jointly by all interest representation bodies of the negotiating group with a decision-making right (Para. (6) of Section 14). If it is also impossible to conclude a collective agreement based on Para. (6) , it shall be concluded jointly by all interest representation bodies of the negotiating group (Para. (7) of Section 14). If it is not possible to conclude a collective agreement based on Para. (7) either, the interest representation bodies of each negotiating group that aggregately received two-thirds of the total score of the representative interest representation bodies active on that negotiation group may conclude the collective agreement (Para. (8) of Section 14). The conditions set forth in Para.s (5)-(8) shall be taken into account separately for each negotiating group of the ÁPB. A collective agreement may also be concluded if the entitlement of each negotiating group to conclude an agreement is not based on the provisions of the same Paragraph (Para. (9) of Section 14). Paragraph *(c)* of Para. (1) and Para. (2) of Section 13 may not be applied if a collective agreement is concluded in the ÁPB (Para. (10) of Section 14).

When the ÁPB Act entered into effect, Para. (11) of Section 14 stipulated that, unless otherwise agreed, the collective agreement shall enter into force on the fifteenth day after execution. The employers' interest representation body shall ensure that the employees working for its members get familiar with the collective agreement.

As of 1 August 2011, Section 115 of Act CV of 2011 clarified the provision on the effective date of collective agreements concluded in an ÁPB. Accordingly, unless otherwise agreed, the collective agreement shall enter into effect on the first day of the month following the expiry of fifteen days after it has been signed. The employers' interest representation body shall ensure that the employees working for its members get familiar with the collective agreement (Para. (11) of Section 14).

When the ÁPB Act entered into effect, Para. (2) of Section 15 stipulated that the scope of a collective agreement shall cover employers belonging to an employers' interest representation body that joined the ÁPB later, and the employees in an employment relationship with them, if the employers' interest representation body that joins the ÁPB after concluding a collective agreement also declares its intention to joins the collective agreement signed in the ÁPB, and

a) the trade union or trade unions entitled to conclude a collective agreement operating at an employer that is member of the employers' interest representation body give their prior approval to joining the collective agreement, Para.s (2)-(5) of Section 33 of the Labour Code being applied as appropriate; or

b) a trade union or trade unions operating at a member of the employers' interest representation body and the employees with an employment contract concluded with that

member give their prior approval to joining the collective agreement if, according to Para. (6) of Section 33 of the Labour Code, the trade union or trade unions operating at the employer are only entitled to conduct negotiations for the conclusion of a collective agreement, or if no works council has been elected. The employees shall vote on this matter. Voting is valid if more than half of the employees working for the employer take part.

As of 1 July 2012, Para. (6) of Section 68 of the Mth. amended points (a) and (b) of Para. (2) of Section 15 of the ÁPB Act for the sake of harmonisation with the new Labour Code as follows:

"a) a trade union or trade unions operating at a member of the employers' interest representation body with the capacity to conclude a collective agreement give(s) its/their prior joint approval to joining the collective agreement; or

b) in the absence of a trade union according to point (a), the employees shall vote on joining the collective agreement. Voting is valid if more than half of the employees working for the employer take part. The collective agreement may be joined with a simple majority of more than half of the votes cast."

As regards the termination of collective agreements, Para. (1) of Section 16 of the ÁPB Act stipulates that if a collective agreement is concluded in an ÁPB by more than one sector-level trade union and then terminated by any of those trade unions, the collective agreement shall cease to apply if it had been impossible to conclude the collective agreement without that trade union. On the basis of this provision, trade unions with a branch represented at an employer member of an interest representation body that joins a collective agreement subsequently shall not have the right of termination. If the collective agreement is terminated, it shall cease to apply with a notice period of six months.

In addition, when the ÁPB Act entered into effect, Para. (2) of Section 16 stipulated that in case a collective agreement is concluded in an ÁPB by more than one sector-level trade union and is terminated in turn by any of those trade unions, including employers' interest representation bodies that joined the collective agreement later, the collective agreement shall cease to apply after the expiry of the period specified in Section 39 of the Labour Code only to the employers belonging to the terminating interest representation body of employers.

To ensure compliance with the new Labour Code, this provision was amended by Para. (7) of Section 68 of the Mth. by stipulating that if a collective agreement is concluded in an ÁPB by more than one sector-level trade union and is in turn terminated by any of those trade unions, including employers' interest representation bodies that joined the collective agreement subsequently, the collective agreement shall cease to apply only to the employers belonging to the terminating interest representation body of employers, taking into consideration Sections 280 and 283 of the Labour Code.

Furthermore, a collective agreement shall cease to apply if, as a result of a change occurring after it is concluded, none of the conditions described in Para.s (5)-(8) of Section 14 are met (Para. (3) of Section 16).

With respect to the Act described in the introduction, since the entry into effect of the ÁPB Act, it is no longer the Labour Code, but the ÁPB Act that governs the extension of collective agreements.

The ÁPB Act describes the rules of extension in more detail than the former provisions of the Labour Code and adds several guarantees, including the seeking of an opinion from the minister in charge of the sector, the requirement to comply with the legal regulations, and the clarification of the ways legal remedy may be sought.

The ÁPB Act contains the following provision on extension by the minister:

Upon the joint request of the two negotiating groups in an ÁPB, the minister may extend the provisions of a collective agreement concluded in the ÁPB on the rights and obligations arising from employment relationships, the exercise and discharge thereof, and the corresponding procedures to the employers classified into the relevant sector based on their core activities after seeking an opinion from the competent committee of OÉT and from the minister in charge of the given sector (Para. (1) of Section 17 of the ÁPB Act, 1st sentence).

If a collective agreement was not signed in the ÁPB, it may be extended, upon the joint request of the signatories, by applying the provisions of this Act, as appropriate (Para. (1) of Section 17 of the ÁPB Act, 2nd sentence).

As of 1 January 2012, the 1st sentence of Para. (1) of Section 17 of the ÁPB Act was amended, due to a change in the applicable regulations, by Section 194 of Act CXCI of 2011 on the benefits for persons with changed working capacity and the amendment of certain acts by making reference to the representatives of national employers' and workers' interest representation bodies and interest representation associations according to NGTT Act, rather than to the competent committee of OÉT.

The minister shall submit the request and its annexes to NGTT and the minister in charge of the given sector to seek their opinion. To facilitate the decision on ordering the extension, the minister shall review whether the collective agreement complies with legal provisions, and whether it contains clauses that are less favourable for the employees than those set forth in sector-level collective agreements extended to the whole sector earlier, with a broader personal scope, unless this is permitted by the collective agreement having broader personal scope.

Accordingly, the representatives of national employers' and workers' interest representation bodies and interest representation associations, as well as the minister in charge of the given sector give their opinions on the request for extension, including the expected impacts and consequences of extension.

As a precondition for extension, employers that are members of the signatory employers' interest representation bodies shall collectively employ the majority of those working within the sector in an employment relationship, and, if the collective agreement was not concluded in an ÁPB, the signatory sector-level trade unions shall include at least one that is regarded as representative according to point a) of Para. (2) of Section 12 (Para. (2) of Section 17 of the ÁPB Act).

The scope of the collective agreement may not be extended if it is contrary to the law, or if it contains provisions that are less favourable than the ones in sector-level collective agreements extended to the whole sector earlier with broader personal scope. For the purposes of this provision, collective agreements within the sector concluded in a higher-level ÁPB shall be regarded as collective agreements with a broader personal scope (Para. (3) of Section 17).

As of 1 July 2012, this provision was amended by Para. (8) of Section 68 of the Mth. by adding the exception that the scope of the collective agreement may not be extended if it contains provisions that are less favourable for the employee than the ones in sector-level collective agreements extended earlier with broader personal scope, unless this is expressly permitted by the collective agreement with broader personal scope.

The minister shall act in accordance with the provisions of Ket, on the understanding that no reopening procedure may be launched as per Section 112 of the Ket. (Para. (4) of Section 17).

The extension shall cease to apply if

a) the court repeals the resolution on extension due to an infringement; or
b) the minister withdraws the extension by appropriately applying the pertinent regulations (Para. (1) of Section 18).

So-called mandatory withdrawals are regulated in Para. (2) of Section 18 of the ÁPB Act. If, based on information forwarded to the registry of collective agreements, the minister becomes aware of the termination of an extended collective agreement, including termination according to Para. (1) or (3) of Section 16, or if the conditions for extension described in Para. (2) of Section 17 are not met, the minister shall withdraw the extension by means of a resolution (Para. (2) of Section 18, 1st sentence). Further cases of withdrawal may not be added, and the minister does not have the discretion to order the withdrawal of extension.

An extension may enter into force, also taking into consideration Para. (3), one year after the extension regarding the last modification at the earliest (Para. (2) of Section 18, 2nd sentence).

The minister shall publish the ministerial decision on the extension or the withdrawal of an extension, as well as the text of the extended collective agreement in the Hungarian Official Journal. The resolution shall enter into force 30 days after the date of publication (Para. (3) of Section 18).

All parties concerned - any trade union or employee, or any employer or employers' interest representation body within the given sector, may lodge an appeal to the court against a decision made according to the rules on public administration procedures.

In addition, Decree 22/2009 (IX. 30.) by the Minister of Social Affairs and Labour on the implementation of Act LXXIV of 2009 on sector-level dialogue committees and on certain issues of intermediate-level social dialogue (hereafter: ÁPBr.), which entered into effect on 1 October 2009, summarises the detailed rules for the procedure of extending collective agreements to an entire sector as follows:

The minister shall proceed upon request to extend collective agreements to an entire sector and to withdraw such extensions (Para. (1) of Section 7 of ÁPBr.). In derogation from that, the minister may also launch withdrawal proceedings ex officio in the case described in Para. (2) of Section 18 of the ÁPB Act. (Para. (2) of Section 7 of ÁPBr.).

When the Decree entered into effect, it stipulated that requests for the extension of collective agreements to an entire sector and for the withdrawal of such extensions shall be submitted to the minister using a dedicated form published on the website of the minister in charge of

sector-level social dialogue (Para. (1) of Section 8 of ÁPBr.). Requests for extension and the withdrawal of extensions may only be submitted in the case of collective agreements led by the minister and recorded in the registry of collective agreements. A justification describing the economic, employment and social conditions necessitating the extension shall be attached to the request (Para. (2) of Section 8 of ÁPBr.). As a change entering into effect on 11 February 2012, requests shall be submitted to the National Labour Office (hereafter: NMH), rather than the minister, since it is the NMH that operates the registry (NGM Decree 3/2012 (II. 10.), Para. (5) of Section 18).

As a consequence of this change in authority and responsibility, the NMH shall also take action instead of the minister, with effect as of 11 February 2012, as follows: Within 8 days after receiving a request, the NMH shall ask the applicant to provide the information necessary for evaluation according to Annex 3 to this Decree. The applicant shall meet this disclosure requirement electronically (on a website) or on electronic media. There is a 30-day deadline for meeting this requirement. To facilitate the electronic provision of data, the NMH shall provide the party obliged to disclose the information, by electronic means, with a randomly generated 8-digit identifier authorising it to log into and use website. Electronic data disclosure shall be performed separately by each interest representation body.

As of 6 July 2012, this provision was amended by Decree 17/2012 (VII. 5.) of the Minister of National Economy to simplify the rules for electronic administration as follows:

Within 8 days after receiving a request, the NMH shall ask the applicant to provide the information necessary for evaluation according to Annex 1. The applicant shall meet this disclosure requirement electronically. There is a 30-day deadline for meeting this requirement. Electronic data disclosure shall be performed separately by each interest representation body.

As a consequence of the above change in authority and responsibility, the NMH shall also take action instead of the minister, with effect as of 11 February 2012, as follows:

By applying Para.s (1)-(3), the NMH asks the interest representation body concerned, which does not qualify as a client, to provide the information required to determine the representativeness of the interest representation bodies signing the collective agreement, if necessary. The NMH shall forward the request and its annexes to the minister to allow the minister to make a decision ordering the extension (Para.s (4)-(5) of Section 8).

Based on Para. (2) of Section 15 of Government Decree 170/2006 (VII. 28.) on the scope of responsibilities and authority of the Minister of Social Affairs and Labour and on point b) of Para. (3) of Section 21 of the ÁPB Act., the ÁRMB shall act as a specialised authority in the procedure for the extension of collective agreements to a whole sector as regards the determination of representativeness (Para. (1) of Section 9). As of 11 February 2012, this Decree was modified due to the above and now provides, based on point b) of Para. (3) of Section 21 of the ÁPB Act., that the ÁRMB shall act as a specialised authority in the procedure for the extension of collective agreements to a whole sector as regards the determination of representativeness.

In the reporting period, extended collective agreements were in effect in four sectors, namely electric power, baking, construction, and catering and tourism.

In 2009, the extended collective agreements in force in the electric power, baking and construction sectors were modified. No change occurred during the reporting period thereafter. Extended collective agreements were not modified, and none of the extensions ceased to apply. In catering and tourism, the extended collective agreement has been in effect since 2001.

In the power sector, upon the joint request of the Association of Power Sector Companies (VTMSZ), the Federation of Trade Unions in Electric Energy Industry (EVDSZ) and the Mining and Energy Industry Workers' Union (BDSZ), the Minister of Social Affairs and Labour extended the agreement on wages and social conditions constituting Annex 2 to the Power Sector Collective Agreement signed on 26 February 2009 to all employers' organisations in group 35.1 of TEÁOR (NACE) '08 (statistical classification of economic activities) "Electric power generation, transmission and distribution" through its Decree No. 8017-5/2009-SZMM of 6 May 2009.

In the baking sector, upon the joint request of the Baking Industry Professional Interest Community, acting on behalf of the Federation of Hungarian Food Industries, the Hungarian Baker Association and the Bakery Workers' Trade Union, the Minister of Social Affairs and Labour extended the scope of the amendment of the Baking Industry Class-Level Collective Agreement, dated 7 December 2009, to all employers' organisations in groups

10.71 Manufacture of bread, fresh pastry goods and cakes;
10.72 Manufacture of rusks, biscuits and preserved pastry goods and cakes

of TEÁOR '08 (statistical classification of economic activities) through its Decree No. 21695-4/2009-SZMM of 11 December 2009.

In the construction industry, upon the joint request of the National Federation of Hungarian Contractors, the Hungarian Association of Craftsmen's Corporations, the Federation of Building, Wood and Material Workers' Unions, and the National Federation of Construction and Associated Trade Unions, the Minister of Social Affairs and Labour extended the scope of the text of the Construction Sector Collective Agreement, consolidated through its amendment dated 2 December 2009, with the exception of Section 8.1 and Part II of the Construction Sector Collective Agreement, to all employers' organisations within the TEÁOR '08 (statistical classification of economic activities) group through its Decree 22042-4/2009-SZMM of 18 December 2009.

The core activities of the group in question included:
41.10 Development of building projects
41.20 Construction of residential and non-residential buildings
42.11 Construction of roads and motorways
42.12 Construction of railways and underground railways
42.13 Construction of bridges and tunnels
42.21 Construction of utility projects for fluids
42.22 Construction of utility projects for electricity and telecommunications
42.99 Construction of other civil engineering projects n.e.c.
43.11 Demolition
43.12 Site preparation
43.13 Test drilling and boring
43.21 Electrical installation
43.22 Plumbing, heat and air conditioning installation
43.29 Other construction installation
43.31 Plastering

43.32 Joinery installation
43.33 Floor and wall covering
43.34 Painting and glazing
43.39 Other building completion and finishing n.e.c.
43.91 Roofing activities
43.99 Other specialised construction activities n.e.c.

B. Provisions on public servants

When the new Labour Code entered into force, , the differing provisions of Sections 8-12/A of the Kjt. on trade union rights and collective agreements were repealed as of 1 July 2012 in order to harmonize the Labour Code with the Kjt. (point a) of Para. (28) of Section 26 of the Mth.). As a consequence, the above-mentioned provisions of the Labour Code are applicable regarding the capacity to conclude a collective agreement in the case of public sector employees.

In connection with the applicable provisions of the Labour Code, Section 13 of the Kjt. stipulates the following with respect to the possibility of derogation in collective agreements, with effect as of 1 July 2012:

As regards public sector employees, Para. (1) of Section 277 of the Labour Code shall apply with the proviso that a collective agreement may derogate from the decrees issued on the basis of this Act or based on authorisation by this Act, if such derogation is permitted by these regulations.

C. Provisions on public officials

Pursuant to the Ktv. and the Kttv., there is still no legal option to conclude a collective agreement at workplace level in the public service, since such agreements are concluded at macro-level and the employment content is provided for by law, although social partners have the right to give an opinion on this in the legislative process.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

The rules of reporting and registering the conclusion of collective agreements are laid down in Decree 2/2004 (15 January) of the Minister of Employment and Labour on the detailed rules of reporting and registering collective agreements.

Decree 3/2012 (10 February) of the Minister of National Economy on the amendment of certain ministerial decrees related to the establishment of the National Labour Office amended Section 1(1) of the Decree with effect from 11 February 2012, and obliged the NMH to register collective agreements reported by contracting parties. As a consequence of this change, the NMH replaces the competent Minister as registrar and performs the related responsibilities.

This provision was clarified by Decree 17/2012 (5 July) of the Minister of National Economy with effect from 6 July 2012, which obliges the contracting parties to report their collective agreement to the NMH for registration within thirty days of conclusion. Also, the Decree incorporated Section 1/A, which provides that the Office shall register collective agreements reported by contracting parties.

Furthermore, Decree 3/2012 (II. 10.) of the Minister of National Economy amended Para. (1)-(3) of Section 2 of Decree 2/2004 (I. 15.) of the Minister of Employment and Labour with effect from 11 February 2012 as follows:

"2. § (1) The parties to a collective agreement shall perform their reporting obligation by filling in and submitting the data sheet in the collective agreement registration menu within the Labour Relations Information System on the Office's website, with the contents laid down in the Annex to the Decree, in the way determined by Para. (2) (hereafter: electronic reporting).

(2) Electronic reporting shall be made via the collective agreement electronic registration system within the Labour Relations Information System on the Office's website (hereafter: electronic registration system) subject to an access code assigned by the Office to the parties to the collective agreement.

(3)The Office has three business days to electronically assign temporary access codes to the parties of collective agreements for initial access to the electronic registration system based on their electronically filed applications."

Decree 17/2012 (VII. 5.) of the Minister of National Economy amended Para. (1) of Section 2 of the Decree 2/2004. (I. 15.) of the Minister of Employment and Labour with effect from 6 July 2012 as follows:

"The parties to a collective agreement shall perform their reporting obligation by electronically filling in and submitting the data sheets in the collective agreement electronic registration system (hereafter: electronic registration system) of the Labour Relations Information System on the Office's website, with the contents laid down in Annex 1, in the way determined by Para. (2) (hereafter: electronic reporting)."

Decree 3/2012 (II. 10.) of the Minister of National Economy amended Section 2/A of the Decree 2/2004. (I. 15.) of the Minister of Employment and Labour with effect from 11 February 2012, as follows:

"2/A. § In case a data sheet or a collective agreement submitted for deposit by virtue of Para. (3) of Section 41/A of the Labour Code is incomplete or inaccurate in terms of the data laid down in points a)-d) of Para. (2) of Section 3, the Office shall not register the collective agreement."

On the other hand, Decree 17/2012 (VII. 5.) of the Minister of National Economy amended Section 2/A of the Decree 2/2004. (I. 15.) of the Minister of Employment and Labour with effect from 6 July 2012, as follows:

"2/A. § In case the data sheet or the collective agreement submitted for deposit by virtue of Para. (4) of Section 1 is incomplete or inaccurate in terms of the data laid down in points a)-d) of Para. (2) of Section 3, the Office shall not register the collective agreement and shall electronically notify the parties thereof."

Decree 3/2012 (II. 10.) of the Minister of National Economy amended Sections 3-5 of the Decree 2/2004. (I. 15.) of the Minister of Employment and Labour with effect from 11 February 2012, as follows:

"3. § (1) Upon the registration of a collective agreement, the Office shall:

a) assign a registration number to the data sheet and the submitted collective agreement,

b) place the data sheet and the collective agreement in its archives,

c) record the data listed in Para. (2) in electronic register, and

d) notify the parties of registration by in an electronic message stating the registration number.

(2) The Office's electronic register shall contain:

a) the names, seats and employer registration numbers (where applicable) of the contracting parties,

b) in the case of collective agreements covering multiple employers, the registration numbers, names and seats of the affected employers,

c) the reported event (conclusion, amendment, termination by notice, amendment of term, expiry of the collective agreement) and its date,

d) the term of the collective agreement (indefinite or definite) and the date of expiry of the collective agreement concluded for a definite term, and

e) the registration number.

(3) The records kept in the electronic register shall be public.

4. § (1) Any information in the data sheet or the deposited collective agreement may only be disclosed or delivered to third parties or disclosed to the public with the prior written consent of the data supplying parties. The Office shall publish on its website any collective agreement covering multiple employers which may be disclosed to the public.

(2)

5. § The Office shall remove the collective agreement from its electronic register if it becomes aware of the expiry of the collective agreement in a manner specified in a separate law. The Office shall notify the parties thereof by stating the registration number."

On the other hand, Decree 17/2012 (VII. 5.) of the Minister of National Economy amended Sections 3-5 of the Decree 2/2004. (I. 15.) of the Minister of Employment and Labour with effect from 6 July 2012, as follows:

"3. § (1) Upon registering collective agreements, the Office shall:

a) assign a registration number to the data sheet and the submitted collective agreement,

b) place the collective agreement which covers multiple employers in its archives (electronic database),

c) store the electronically submitted data on its information technology device,

d) notify the parties of registration in an electronic message stating the registration number.

(2) The Office's electronic register shall contain:

a) the names, seats and employer tax numbers (where applicable) of the contracting parties,

b) in the case of collective agreements covering multiple employers, the registration numbers, names and seats of the affected employers,

c) the reported event (conclusion, amendment, amendment of term or expiry of the collective agreement) and its date,

d) the term of collective agreements (indefinite or definite) and the date of expiry of the collective agreements concluded for a definite term, and

e) the registration number.

(3) The Electronic Register of Collective Agreements, prepared on the basis of registration, shall be public.

4. § Any information in the data sheet or the deposited collective agreement may only be disclosed or delivered to third parties or disclosed to the public with the prior written consent of the data supplying parties. The Office shall publish on its website any collective agreement which may be disclosed to the public.
5. § In case the Office becomes aware from a reliable source that the collective agreement has ceased to be effective, it shall transfer such agreement to its database which contains non-effective contracts and agreements. The Office shall notify the parties accordingly by stating the registration number."

As regards the characteristics of mid-level social dialogue, we highlight that 23 committees operated in 2008 and 2009, including 5 "structured committees". The structured sectoral committees contained sub-sectoral and specialised sectoral committees. The 5 structured committees involved a total of 12 sub-sectoral and specialised sectoral committees. Accordingly, the total number of committees was 35. The work of the 35 committees received contributions from 53 employers' and 56 employees' organisations.

In 2010, a total of 30 committees, including 4 structured committees, were reorganised by virtue of the ÁPB Act. The structured committees comprised a total of 7 sub-sectoral and specialised sectoral committees. One sub-sectoral dialogue committee was set up in 2011 and one sub-sectoral dialogue committee was terminated and one sectoral committee turned into a national economy dialogue committee in 2012. 2012 witnessed the operation of 1 national economy committee, 18 sub-sectoral committees, 9 subcommittees and 2 specialised sectoral dialogue committees. Of the 30 committees 4 were structured committees, comprised of a total of 7 sub-sectoral and specialised sectoral committees. The work of the committees involved 40 employers' and 40 employees' organisations.

In 2010, Priority Project No. 2.5.2 of the Social Renewal Operative Program (TÁMOP) gave rise to a comprehensive study on the operation of sectoral dialogue committees with the title "Changes in mid-level reconciliation of interests in Hungary from the PHARE project to the present and the relations of Sectoral Dialogue Committees with institutions of macro-level reconciliation of interests". The survey and information from the Sectoral Dialogue Centre revealed that 11 ÁPBs have signed an agreement in the past three years, of which four have been successively renewed by the parties. Most agreements were signed to regulate wages. The subject of agreements signed in 2012 is set out in a separate column in the following table.

Currently, there are another 9 collective agreements in effect which were signed by unions affiliated to ÁPBs. Of them, four are extended collective agreements.

ÁPB's name	**Year**	**Subject of agreement**	**Subject of the 2012 agreement**
Building Industry ÁPB	2010	Agreement and recommendation on the minimum overhead hourly rate	Recommendation on the overhead hourly rate remains in effect unaltered. Recommendation on the maximum working hours for 2012 and 2013, primarily for SMEs.
Spa Services Special ÁPB	2009 2010	Agreement on the 2009 employment and compensation principles Agreement on the 2010 employment and compensation principles	-

Gas Industry Sub-ÁPB	2009	Sectoral wage agreement	Committee terminated in 2012
Mechanical Industry ÁPB	2010	Wage and social agreement	-
Pharmaceutical Industry Sub-ÁPB	2009 2010 2011	Sectoral wage agreement Sectoral wage agreement Sectoral wage agreement	-
Light Industry ÁPB	2009	Agreement, letter of intent to conclude a collective agreement	-
Agriculture ÁPB	2010	Recommendation on the 2010 fringe benefits	-
Postal ÁPB	2010	Wage agreement	-
Chemical Industry ÁPB	2011	Sectoral wage agreement	Sectoral wage agreement
Electric Power Industry Sub-ÁPB	2009 2010 2011	Electric Power Industry Wage and Social Agreement Electric Power Industry Wage and Social Agreement Electric Power Industry Wage and Social Agreement	Wage and Social Agreement Agreement on the Electric Power Industry's Sectoral Wage Tariff System Agreement on the Electric Power Industry's Sectoral Wage Tariff System
Water Public Utility ÁPB	2009-2010	Agreement and recommendation on service fees	-

Source: NMH Social Dialogue Department

3) KEY DATA AND STATISTICS

The reference statistical data for the period between 1 January 2009 and 31 December 2012 are set out in the following annexes:

The most important data regarding collective agreements (2009-2012)

		2009	2010	2011	2012
Collective agreements applying to a single employer	number (qty.)	2,683	2,706	2,706	2,679
	Number of employees covered (person)	622,379	628,955	638,093	604,554
	Coverage (%)	23.4	27.4	23.7	22.8
Collective agreements concluded by more employers	number (qty.)	59	61	62	63
	Number of employees covered (person)	70,409	75,127	75,171	90,474
	Coverage (%)	2.7	3.3	2.8	3.4
Collective agreements concluded by representative organisations of employers	number (qty.)	19	19	19	17
	Number of employees covered (person)	135,250	141,273	138,613	134,511
	Coverage (%)	5.1	6.2	5.2	5.1
Collective agreements with an extended scope	number (qty.)	4	4	4	4
	Number of employees covered (person)	227,805	233,422	228,770	219,825
	Coverage (%)	8.6	10.2	8.5	8.3
Total (cleaned) coverage (%)		33.4	39.6	34	33.6

Source: *NMH (Hungarian Labour Inspectorate)*

Business entities – provisions regulated in a collective agreement applying to a single employer – in consolidated economic and sectoral breakdown

	Private sector KSH (Central Statistical Office) headcount	**total**		**work hours**				**substitution**				**overtime**			
	person	qty.	person	qty.	%	person	%	qty.	%	person	%	qty.	%	person	%
Agriculture	74,732	65	14,011	35	53.8	7,330	52.3	56	86.2	11,208	80.0	41	63.1	8,228	58.7
Mining, quarrying	3,743	9	1,666	8	88.9	1,666	100.0	8	88.9	1,204	72.3	7	77.8	1,139	68.4
Processing industry	591,653	344	172,433	260	75.6	127,248	73.8	287	83.4	148,170	85.9	232	67.4	117,589	68.2
Electricity, gas and steam supply, air conditioning	23,477	47	16,736	35	74.5	13,979	83.5	43	91.5	16,027	95.8	38	80.9	15,389	92.0
Water supply, sewage	37,695	67	21,757	45	67.2	15,442	71.0	61	91.0	20,117	92.5	53	79.1	13,835	63.6
Construction industry	108,075	45	7,801	12	26.7	4,025	51.6	41	91.1	7,565	97.0	34	75.6	6,658	85.3
Trade, motor vehicle repair	332,695	119	25,123	68	57.1	14,789	58.9	98	82.4	22,958	91.4	70	58.8	16,848	67.1
Transport, storage	171,515	56	100,738	45	80.4	97,388	96.7	51	91.1	99,914	99.2	48	85.7	98,142	97.4
Accommodation services, catering	68,201	18	7,310	12	66.7	3,066	41.9	15	83.3	6,213	85.0	12	66.7	4,773	65.3
Information and communication	66,864	14	15,777	9	64.3	13,854	87.8	14	100.0	15,777	100.0	12	85.7	14,886	94.4
Financial,	63,692	27	11,0	10	37	5,84	52.	22	81.	7,46	67.	18	66.	7,23	65.

insurance activities			31		.0	0	9		5	8	7		7	7	6
Real estate transactions	24,746	30	7,856	17	56.7	3,842	48.9	20	66.7	6,732	85.7	16	53.3	6,565	83.6
Professional, scientific, technical activities	68,149	30	3,994	10	33.3	1,566	39.2	23	76.7	3,020	75.6	20	66.7	2,385	59.7
Administrative and support service activities	123,233	22	9,249	9	40.9	5,747	62.1	19	86.4	8,075	87.3	10	45.5	6,213	67.2
Public administration, defence, compulsory NI	0	1	798	0	0.0	0	0.0	1	100.0	798	100.0	1	100.0	798	100.0
Education	3,464	7	201	4	57.1	199	99.0	5	71.4	151	75.1	4	57.1	128	63.7
HR-health, social services	14,179	19	6,863	11	57.9	5,215	76.0	18	94.7	6,863	100.0	17	89.5	6,603	96.2
Art, entertainment, recreation	9,462	7	1,796	4	57.1	263	14.6	7	100.0	1,796	100.0	5	71.4	1,756	97.8
Other services	14,313	17	1,196	8	47.1	800	66.9	13	76.5	1,066	89.1	6	35.3	725	60.6
Total	**1,799,888**	**944**	**426,336**	**602**	**63.8**	**322,259**	**75.6**	**802**	**85.0**	**385,122**	**90.3**	**644**	**68.2**	**329,897**	**77.4**

Source: *NMH (Hungarian Labour Inspectorate)*

Provisions regulated in a collective agreement applying to several employers

	KSH (Central Statistical Office)	**total**		**work hours**				**substitution**				**overtime**			
		qty.	person	qty.	%	person	%	qty.	%	person	%	qty.	%	person	%
Agriculture	74,732	7	49,492	7	100.0	49,492	100.0	0	0.0	0	0.0	7	100.0	49,492	100.0

Processing industry	591,653	26	42,015	8	30.8	7,290	17.4	11	42.3	22,863	54.4	10	38.5	6,963	16.6
Electricity, gas and steam supply, air conditioning	23,477	6	2,496	3	50.0	918	36.8	3	50.0	2,096	84.0	4	66.7	2,261	90.6
Water supply, sewage	37,695	2	23,867	2	100.0	23,867	100.0	1	50.0	23,563	98.7	2	100.0	23,867	100.0
Construction industry	108,075	7	2,757	0	0.0	0	0.0	1	14.3	82	3.0	6	85.7	2,533	91.9
Trade, motor vehicle repair	332,695	9	12,532	5	55.6	1,576	12.6	5	55.6	11,842	94.5	5	55.6	554	4.4
Transport, storage	171,515	8	29,721	6	75.0	29,614	99.6	4	50.0	29,262	98.5	5	62.5	2,171	7.3
Accommodation services, catering	68,201	3	4,085	3	100.0	4,085	100.0	1	33.3	2,724	66.7	1	33.3	2,724	66.7
Information and communication	66,864	1	403	1	100.0	403	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Financial, insurance activities	63,692	1	3,209	1	100.0	3,209	100.0	1	100.0	3,209	100.0	1	100.0	3,209	100.0
Real estate transactions	24,746	2	40	1	50.0	0	0.0	0	0.0	0	0.0	1	50.0	0	0.0
Professional, scientific, technical activities	68,149	1	782	1	100.0	782	100.0	0	0.0	0	0.0	1	100.0	782	100.0
Education	3,464	1	0	1	100.0	0	0.0	0	0.0	0	0.0	1	100.0	0	0.0
Other services	14,313	6	14,327	2	33.3	0	0.0	1	16.7	12,802	0.0	2	33.3	1,525	0.0
Total	**1,649,271**	**80**	**185,726**	**41**	**51.3**	**121,236**	**65.3**	**28**	**35.0**	**108,443**	**58.4**	**46**	**57.5**	**96,081**	**51.7**

Source: *NMH (Hungarian Labour Inspectorate)*

Certain elements of collective agreements announced in a given year and the number of employers and employees affected

	Private sector								Public sector			
	Collective agreement applying to a single employer				*Collective agreement applying to several employers*				*Collective agreement applying to a single employer*		*Collective agreement applying to several employers*	
	Work hours		Special work duty		Work hours		Special work duty		Special work duty		Special work duty	
	employer qty.	affected number	employer qty.	affected number	employer qty.	affected number	employer qty.	affected number	employer qty.	affected number	employer qty.	affected number
2009	142	156,101	177	168,269	40	17,494	78	30,414	74	26,631	0	0
2010	145	141,094	173	156,931	29	11,472	29	11,472	74	29,016	0	0
2011	102	138,831	118	137,271	38	6,503	43	13,349	33	10,931	0	0
2012	93	133,033	117	139,377	31	33,796	46	41,151	18	6,004	0	0

Source: *NMH (Hungarian Labour Inspectorate)*

2009

Economic sector		Number of employees	Collective agreement applying to a single employer		
			Collective Agreement qty.	number	Coverage %
A	Agriculture	82,780	63	6,728	8.1
B	Mining, quarrying	4,290	9	1,273	29.7
C	Processing industry	604,340	336	141,386	23.4
D	Electricity, gas and steam supply, air conditioning	25,062	50	15,998	63.8
E	Water supply, sewerage collection, waste management	45,229	69	23,815	52.7
F	Construction industry	117,816	49	7,917	6.7
G	Trade, motor vehicle repair	345,414	127	41,587	12.0
H	Transport, storage	185,564	55	85,067	45.8
I	Accommodation services, catering	80,423	38	8,424	10.5
J	Information and communication	65,214	12	14,082	21.6
K	Financial, insurance activities	69,536	24	22,080	31.8
L	Real estate transactions	29,571	32	8,781	29.7
M	Professional, scientific, technical activities	72,465	51	6,319	8.7

N	Administrative and support service activities	109,858	26	8,464	7.7
O	Public administration, defence, compulsory NI	293,490	99	19,686	6.7
P	Education	256,514	1,288	109,686	42.8
Q	HR-health, social services	213,345	245	91,017	42.7
R	Art, entertainment, recreation	37,700	90	7,708	20.4
S	Other services	17,709	20	2,361	13.3
Total:		**2,656,320**	**2,683**	**622,379**	**23.4**

Source: *NMH (Hungarian Labour Inspectorate)*

Economic sector		**Number of employees**	**Collective agreement applying to several employers**									
			Concluded by several employers [a)]				**Concluded by representative organisations** [b)]				Several **employers total a)+b)**	
			Collective Agreement qty.*	**employer** qty.	**number**	**Coverage %**	**Collective Agreement** qty.*	**employer** qty.	**number**	**coverage %**	**adjusted number** **	**cleaned coverage %****
A	Agriculture	82,780	5	9	1,400	1.7	2	587	17,139	20.7	17,969	21.7
B	Mining, quarrying	4,290	0	3	218	5.1	0	2	33	0.8	251	5.9
C	Processing industry	604,340	21	77	33,441	5.5	6	528	25,591	4.2	51,160	8.5
D	Electricity, gas and steam supply, air conditioning	25,062	6	16	4,814	19.2	0	14	9,559	38.1	13,773	55.0
E	Water supply, sewerage collection, waste management	45,229	1	3	443	1.0	1	21	9,440	20.9	9,769	21.6
F	Construction industry	117,816	6	39	4,800	4.1	1	455	12,971	11.0	16,922	14.4
G	Trade, motor vehicle	345,414	6	17	5,150	1.5	0	107	4,792	1.4	9,934	2.9

	repair											
H	Transport, storage	185,564	5	13	1,834	1.0	2	182	21,373	11.5	23,207	12.5
I	Accommodation services, catering	80,423	3	7	6,284	7.8	0	30	11,241	14.0	11,241	14.0
J	Information and communication	65,214	1	8	535	0.8	0	3	8	0.0	543	0.8
K	Financial, insurance activities	69,536	1	2	3,209	4.6	0	10	873	1.3	4,082	5.9
L	Real estate transactions	29,571	1	15	6,739	22.8	0	41	4,880	16.5	10,829	36.6
M	Professional, scientific, technical activities	72,465	2	18	1,249	1.7	0	31	472	0.7	1,486	2.1
N	Administrative and support service activities	109,858	0	4	166	0.2	1	63	16,737	15.2	16,903	15.4
O	Public administration, defence, compulsory NI	293,490	0	0	0	0.0	0	1	0	0.0	0	0.0
P	Education	256,514	1	15	0	0.0	0	6	8	0.0	8	0.0
Q	HR-health, social services	213,345	0	0	0	0.0	0	1	0	0.0	0	0.0
R	Art, entertainment, recreation	37,700	0	1	127	0.3	0	0	0	0.0	127	0.3
S	Other services	17,709	0	0	0	0.0	6	26	133	0.8	133	0.8
	Total:	**2,656,320**	**59**	**247**	**70,409**	**2.7**	**19**	**2,108**	**135,250**	**5.1**	**188337**	**7.1**

Source: *NMH (Hungarian Labour Inspectorate)*

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. Employment-related provisions

In the reporting period no changes occurred in the former Labour Code. In addition, Part IV of the Labour Code summarises the provisions on labour disputes. Chapter XXII relates to labour claim enforcement and Chapter XXIV regulates labour disputes.

The Labour Code does not define the concept of collective labour dispute. However, Para. (1) of Section 291 of the Labour Code provides that a collective labour dispute may arise between the employer and the works council or the union.

A dispute between the above bodies (organisations) qualifies as a collective labour dispute unless classified as a labour claim under Chapter XXIII. Accordingly, any dispute which is not based on a subjective right shall qualify as a collective labour dispute. Collective labour disputes include but are not limited to any conflict between the parties over their cooperation or the establishment and operation of their relations or any dispute over the settlement of relevant issues arising from the type of union, such as a dispute between the employer and the works council over matters that are subject to the works council's right to make comments. Employers and unions can typically engage in a dispute of interests in the course of wage bargaining.

Conciliation committee

The employer and the works council or the union may establish a conciliation committee to resolve any dispute which may arise between them (Para. (1) of Section 291 of the Labour Code). The works agreement or the collective agreement may also contain provisions about establishing a permanent committee. The conciliation committee is responsible for resolving any dispute other than labour claims, i.e. disputes unrelated to the enforcement of a subjective right.

The committee shall consist of an equal number of members delegated by the employer and the works council or the union and an independent chairperson (Para. (2) of Section 291 of the Labour Code). In other respects, the conciliation committee shall develop its own rules of procedure.

The chairperson shall continuously consult with the members delegated by both parties and produce a written summary of the result of conciliation on completion thereof (Para. (1) of Section 292 of the Labour Code). All reasonable costs arising out of the committee's procedure shall be borne by the employer (Para. (2) of Section 292 of the Labour Code).

The employer and the works council or the union may agree in writing in advance to subject themselves to the committee's decision. In such cases, the committee's decision shall be binding. When vote are tied, the chairperson's vote shall be conclusive (Para. (1) of Section 293 of the Labour Code). In the case of subjection, the conciliation committee's decision shall be binding on the parties and shall exclude any further legal redress. It follows from Section 13 of the Labour Code that the conciliation committee's binding decision shall qualify as a rule on employment.

During the term of the committee's procedure, the parties may not adopt any conduct which would prevent the enforcement of the agreement or the decision (Para. (3) of Section 293 of the Labour Code).

Arbitrator

By virtue of Para. (4) of Section 236 of the Labour Code, all reasonable costs arising from the election and operation of the works council shall be borne by the employer. By virtue of Section 263 of the Labour Code, the employer and the works council shall jointly decide on the use of funds for welfare purposes.

In case the parties fail to agree on these matters or to close any disputed matter, such dispute shall be resolved by the arbitrator (Para. (2) of Section 293 of the Labour Code).

The arbitrator's decision shall be binding on the parties. In the absence of the parties' agreement, the arbitrator shall be selected from the parties' candidates by draw (Para. (2) of Section 293 of the Labour Code).

The arbitrator shall have exclusive competence. Consequently, neither party which finds the arbitrator's decision injurious may enforce its claim before a labour court.

During the term of the arbitrator's procedure, the parties may not adopt any conduct which would prevent the enforcement of the agreement or the decision (Para. (3) of Section 293 of the Labour Code).

B. Provisions on public officials

The Labour Mediation and Arbitration Service (hereinafter: MKDSZ) operates in the framework of the Social Dialogue Centre belonging to the National Labour Office. The MKDSZ started its operation on 1 July 1996, and operated in the organisational framework of the Ministry of Social Affairs and Labour until 2010. It performs its activities in legal relationships subject to the former Labour Code, the Kjt., the Ktv. and Act XLIII of 1996 on the service relationship of professional members of the armed forces. The mission of the MKDSZ is to facilitate the dissemination and transposition of conciliation, intermediation and arbitration as new activities. In particular, this means that, in a labour dispute, the MKDSZ recommends a prepared, qualified mediator/arbitrator who is the most appropriate for the needs of the parties.

Point (b) of Para. (6) of Section 29 of the Kttv. strengthens the role of the Hungarian Government Officials Corps (hereinafter referred to as: MKK) in defending rights and

intermediating so that the MKK protects the interests of its bodies and members and the rights of government officials. (For fuller details of the MKK see Section 21.)

Pursuant to Para.s (1-2) of Section 190 of the Kttv., the government official has the right to submit a public service complaint to the Arbitration Board of Government Officials for the purposes of invoking claims arising from a government service relationship in issues related to
a) termination of a government service relationship,
b) written notice for ending a conflict of interest,
c) statements of classification and performance evaluation,
d) decisions in disciplinary action and compensation proceedings,
e) unilateral amendments of an appointment.
The government official or employer has the right to apply to the courts against decisions of the Arbitration Board of Government Officials within thirty days from the notification of the decision.

C. Provisions on professional members of the armed forces and Hungarian Defence Forces

Para (1) of Section 34/A of the Act on professional members of the armed forces:

"(1) Designated representatives of the armed forces and elected officials of a trade union participate in interest reconciliation related to service relationships in the armed forces. Negotiating partners have the right to involve experts in the settlement of disputes. Commanders of staff shall submit their position on the remarks and proposals of the trade union and their reply on the information, together with a statement of grounds, within a maximum of 30 days."

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

Point (2) of Government Decree No. 1207/2011 (VI. 28.) on the reconciliation of careers in public service provides for the preparation of regulation regarding the MKK. The principles of personal administration subject to the Kttv. has been laid down by the "Magyary Zoltán" Public Administration Development Programme.

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. Employment-related provisions

Act CLXXVIII of 2010 on the amendment of Act VII of 1989 on strike (hereafter: Strike Act) amended the Strike Act with effect from 1 December 2010. The amendment aimed to define the scope and conditions of minimum services also by virtue of an Act or agreements or, in the absence thereof, by court action, and thereby to terminate any legal uncertainty caused by the lack of the parties' agreement in terms of strike legitimacy at employers providing public services, and to ensure a predictable service level for consumers who also want to use the service during the strike.

Accordingly, Para. (2) of Section 4 of Strike Act was amended as follows and was extended to include Para.s (3) and (4) as follows:

"(2) An employer engaged in activities which fundamentally affect the population, especially in the public transport and telecommunications sectors, as well as the suppliers of electricity, water, gas and other forms of energy may only organise strikes without hampering the provision of minimum service."

"(3) The scope and conditions of minimum service may be determined by law. In the absence of such legislation, an agreement shall be reached on the scope and conditions of minimum service during pre-strike consultation; if that occurs, the strike may be organised if the parties have reached the agreement or, in the they fail to agree, a labour court's final decision has determined the scope and conditions of minimum service in response to a petition of either party."

"(4) The labour court's procedure laid down in Para. (3) shall be subject to the rules of competence and jurisdiction laid down in Para. (1) of Section 5. The labour court shall proceed out of court to issue a ruling within five days after hearing the parties, if necessary. An appeal shall lie against the labour court's decision within five days of pronouncement. Such appeal shall be submitted to the second instance court together with all case files on the day of receipt. The second instance court shall decide within five days."

If the particular public service is not regulated by law, the Strike Act authorised the parties to negotiate an agreement as part of the pre-strike consultation. In case no agreement is reached, either party may apply to the labour court to define minimum service. According to the Strike Act's justification, the brevity of the labour court procedure (5 days) helps prevent the term of court procedure from rendering the right to strike non-exercisable.

The amendment extends the definition of unlawful strike. Contrary to previous practices, a strike which does not ensure minimum service and constitutes the abuse of a right shall also be unlawful. (point a) of Para. (1) of Section 3 of Strike Act was extended to include a reference to the further cases of unlawful strike in Para. (3) of Sections 1 and Para. (2) of Section 4).

As a specification, the Act was extended to include the text "conciliation procedure organised in a collective labour dispute". In other words, a strike may be initiated within seven days of an inconclusive conciliation procedure held about a collective labour dispute on the issue in question (Section 2(1)a)).

Accordingly, point c) of Para. (2) of Section 349 of Pp. was amended. The phrase "on an unlawful organisation" in the definition of labour suit complemented with "or on the performance of a statutory obligation". Consequently, labour suit includes but is not limited to the enforcement of a claim based on unlawful conduct related to a strike or any other labour fight or freedom of trade union activity or on the performance of a statutory obligation.

Section 47 of Act CXLI of 2011 on the amendment of Act CXXII of 2010 on the National Tax and Customs Office and certain related laws amended Para. (2) of Section 3 of Strike Act with effect from 1 January 2012 by imposing a ban on strike for the official staff of the National Tax and Customs Office (hereafter: NAV):

"(2) No strike may be organised by judicial bodies, the Hungarian Defence Forces, law enforcement agencies or national civil security services. Administrative agencies may exercise the right to strike subject to the special rules laid down in the agreement between the Government and the affected unions but the commissioned staff of the National Tax and Customs Office may not exercise the right to strike."

Before the establishment of the NAV, the Strike Act did not authorise the Customs and Financial Guard as a law enforcement agency to organise strikes. The NAV is not a law enforcement agency but harmonisation with the provisions on law enforcement agencies in terms of certain rights and obligations required for their official staff and hence the amendment makes it clear that NAV's official staff may not exercise the right to strike.

In addition, Para. (1) of Section 23 of Mth. amended Para. (4) of Section 4 to adjudicate the legal dispute defined in Para. (4) of Section 4 and Para. (2) of Section 5 according to standard rules of procedure. Accordingly, the labour court's procedure laid down in Para. (3) shall be subject to the rules of competence and jurisdiction laid down in Para. (1) of Section 5 and to the rules laid down in Para. (2) of Section 5.

Para. (4) of Section 4 of the Strike Act opens the judicial way to resolve any dispute on the scope and conditions of minimum service. Para. (2) of Section 5 relates to the labour court procedure aimed at establishing the lawfulness or unlawfulness of a strike. With a view to uniform adjudication, the labour court shall make a decision in an out of court procedure within five business days or after hearing the parties as necessary.

In this context, Para. (2) of Section 23 of Mth. amended Para. (2) of Section 5 with effect from 1 July 2012 as follows:

"The labour court shall proceed out of court to issue a ruling within five business days or after hearing the parties as necessary. An appeal shall lie against the labour court's decision within five days of pronouncement. Such appeal shall be submitted to the second instance court together with all case files on the day of receipt."

B. Provisions on public officials

Para. (2) of Section 3 of the Strike Act, which provides for the exercise of the right to strike, has been amended with effect from 1 January 2012. Based on the amendment, the professional members of the NAV are not entitled to exercise their right to strike. Pursuant to the Strike Act, prior to the establishment of the NAV, the employees of the Hungarian Customs and Finance Guard (which was merged into the NAV) as a law enforcement organisation had no entitlement to exercise their right to strike. Although the NAV is not a law enforcement organisation, it is necessary to establish coherence with the provisions governing law enforcement organisations with regard to certain rights and obligations of the professional members, so the Strike Act has been amended by the Act to clarify that the professional members of the NAV have no entitlement to exercise their right to strike.

We note that the strike agreement with regard to public administration has been valid unaltered since 1994.

C. Provisions on professional members of the armed forces and Hungarian Defence Forces (Hszt.)

Pursuant to Para. (1a) of Section 21 of the Hszt.: "The representative organisations shall operate and exercise their privileges freely within the framework of this Act. Nevertheless, they have no right to organise a strike and shall not by their activities prevent the lawful and normal operation of the armed forces and the fulfilment of obligations by professional members of the armed forces related to executing commands and measures, including the endangerment of maintaining public trust required for operating the armed forces."

Pursuant to Para (2) of Section 3 of the Strike Act, strikes are forbidden by the Hungarian Defence Forces, and pursuant to Para. (3) of Section 26 of the Hjt., the representative organisations are not entitled to organise strikes.

2) MEASURES TAKEN TO IMPLEMENT THE LEGISLATION

In the reporting period, the following rulings were reached and published in the *Journal of Court Decisions* regarding the exercise of the right to strike:

EBH2013. M.10
I. In case the economic and social interest laid down in Para. (1) of Section 1 of Act VII of 1989 can be ascertained and Section 3(2) and (3) of Act VII of 1989 does not explicitly prohibit the planned strike, employees may exercise the right to strike.

II. In the absence of statutory regulation and the parties' agreement, the administrative and labour court may decide on the scope and conditions of minimum service by examining the

parties' offers and by making a decision on the approval of either party's final offer [Section 70/C(2) of Act XX of 1949, Sections 1(1), 3(2)-(3) and 5(1) of Act VII of 1989, Section 194(1) of Act XXII of 1992].

In this case, the petitioner unions, each of which operate at the respondent company limited by shares, asked the court to verify the scope and conditions of minimum service as laid out in their submission with regard to a strike against the respondent employer, announced for two hours and subsequently from the beginning of operating hours for an indefinite term. The labour court's order partially approved the petition.

According to the facts found by the court, the petitioners found injurious the Government's proposed measures to terminate and reform early retirement schemes. Therefore, all petitioners initiated a collective labour dispute initially with the Government and then with the respondent employer. In the consultation, the parties failed to reach an agreement on the scope and conditions of minimum service.

On taking its decision, the labour court took into consideration the nature of the strike as a means to exert pressure and, in this context, the expectation that the practical implementation of the strike should not blur the focus of the petitioners' request but also, in parallel, that no person affected by the strike, whether directly or indirectly, should suffer a disproportionate injury. The court found that the respondent employer proposed an excessive extent of minimum service, by which the basic service level would mean 90% of the daily transport service schedule during peak hours and 70% during off-peak hours.

The labour court used its discretionary power to determine the conditions of minimum service for the duration of the strike.

The Curia found the petitioners' review application well-grounded as follows:

I. European Union law considers the regulation of the right to collective bargaining as part of the jurisdiction of each Member State. Article 6.4 of Part II and Article 6 of the Annex to the Revised European Social Charter, promulgated by Act VI of 2009, authorise employees and employers to collective action in the case of conflict of interest, including the right to strike, subject to the obligations arising from previously adopted collective agreements, but also allow for the limitation thereof.

By virtue of Para. (2) of Section 70/C of Act XX of 1949 (hereafter: Constitution), which also governs this matter, the right to strike may be exercised within the limits of the relevant Acts.

The Strike Act creates a regulatory framework for exercising the right to strike. In interpreting its provisions, the starting point shall be the constitutional recognition of the right to strike as a fundamental employee's right in consideration of the purpose and function of this legal institution. By virtue of Para. (1) of Section 1 of Strike Act, workers shall be entitled to the right to strike to ensure their economic and social interests subject to the conditions laid down in the Act. The Strike Act regulates a right to which employees are entitled and does not provide, with the exception of solidarity strikes, that it may only be initiated by the subject of a collective labour dispute. In other words, strike is not an autonomous entitlement of unions in Hungarian law as it may also be initiated by both employees and unions.

The interpretation of Para. (1) of Section 1 of Strike Act shall be governed by the International Labour Organisation's Decision in Principle No. 368, which says the interests that employees may protect by exercising the right to strike may not only aim at more

favourable working conditions or employment-type collective needs but also at solving the economic and social policy and labour problems that directly affect employees.

A decision on the existence of the employees' right to strike shall be based on the individual specifically formulated strike demands. In case an economic and social interest defined in Para. (1) of Section 1 of Strike Act may be identified with respect to a demand, and in case Paea. (2)-(3) of Section 3 does not explicitly prohibit the organisation of the planned strike, the employees shall have the right to strike. The lawfulness or unlawfulness of the planned strike shall be examined with regard to the petition in question. By virtue of Para. (1) of Section 5 of Strike Act, a person who has a legal interest in the determination of lawfulness or unlawfulness may seek a decision to that effect.

Therefore, the exercise of the right to strike as a constitutional fundamental right of employees may not be limited in the absence of an explicitly prohibiting statutory provision and may not be restricted to the right to reach a collective agreement or some other employment-related contractual arrangement of the same effect between the parties to a collective labour dispute which does not qualify as a legal dispute. The same interpretation also follows from the provision in Para. (2) of Section 2 of Strike Act which says that in case there is no way to identify the employer affected by a strike demand, the Government shall appoint a representative to participate in the conciliation procedure within five days.

In a previous ad-hoc decision, the Supreme Court (Curia) adopted the position that the right to strike shall not exclusively be interpreted in the relationship between employer and employee. Indeed, an employment-related (economic and social) right or obligation may not only be exercised or performed by the employer but also a third-party individual or body whose action in this case shall qualify as the employer's action (Mfk. II. 10.900/2009/3). Also in international practices, a strike may serve to solve economic and social policy and labour issues which directly affect employees.

II. By virtue of Para. (2) of Section 4 of Strike Act, a strike may only be organised at an employer engaged in activities which fundamentally affect the population, especially in the public transport and telecommunication sectors, as well as electricity, water, gas and other energy suppliers without preventing the provision of minimum service. By virtue of Para. (3) of Section 4 of Strike Act, the scope and conditions of minimum service may be determined by law. In the absence of such legislation, an agreement shall be reached on the scope and conditions of minimum service during pre-strike consultation; in that case, the strike may be organised if the parties have reached the agreement or, if they fail to agree, a labour court's final decision has determined the scope and conditions of minimum service in response to a he petition of either party.

In case the petitioner files for the determination of the scope and conditions of minimum service to organise a strike, there is no need to examine the lawfulness or unlawfulness of the planned strike as a preliminary matter in the absence of the relevant petition since the right laid down in Para. (1) of Section 1 of Strike Act need not, for the above considerations, be interpreted together with point a) of Para. (1) of Section 1 of Strike Act.

The court may decide on the scope and conditions of minimum service by separately examining the parties' respective offers and by making a decision to accept the offer of either party.

Given the tight deadline of 5 business days set for out of court procedures, the parties shall be especially expected to make, in the absence of an agreement, an appropriate, serious and professionally duly supported statement in court according to the basic principles of labour law (such as good faith, probity, obligation of mutual cooperation, proper exercise of rights) concerning the scope and conditions of minimum service, mutually evaluated during the previous consultation with the intention of an agreement, understanding that in case the

definitive offer does not comply with this prohibition and the one laid down in Para. (3) of Section 3 of Strike Act, which provides that no strike directly and seriously endangering life, health, physical integrity or the environment, or hampering the prevention e of natural disasters may be organised, the court may make its decision according to the other party's definitive offer or may decide to dismiss the petition.

While either party is legally authorised to file for the determination of the scope and conditions of minimum service, the petition shall obviously be filed by the person who is interested in organising the strike since the relevant final court decision, in the absence of an agreement, is a legal pre-requisite for organising the planned strike. Therefore, it is not sufficient to file for the relevant court decision. The petition must fully comply with the requirements for petitions laid down in Para. (1) of Section 121 of Pp. Consequently, it is also indispensable in the particular out of court procedure that the petition for the determination of the scope and conditions of minimum service should specifically contain the petitioner's professionally supported definitive offer for which it shall be liable. Otherwise, the petitioner shall be ordered to submit such missing information and, if the petitioner fails to obey, the legal consequences shall prevail.

The respondent shall submit its counterclaim in awareness of the petition, presenting all supporting facts and evidence by virtue of Section 139 of Pp. Within the particular procedure, this expects the respondent to submit, unless its counterclaim is aimed at terminating the procedure, its own, professionally supported definitive offer concerning the scope and conditions of minimum service, for which it shall be liable.

The court's decision on the merits shall be limited by the petitioner's petition and the respondent's counterclaim (Section 215of Pp). While the court is bound by the applications and legal statements submitted by the parties by virtue of Para. (2) of Section 3 of Pp., the petitioner's offer for the possibility of a bigger strike includes the possibility of the respondent employer's offer for a smaller strike (as less in more). Therefore, there is no procedural obstacle to determine the conditions and scope of minimum service according to the respondent's definitive offer in case the labour court finds it well-grounded.

In the matter, the Curia overturned the final ruling and instructed the administrative and labour court to conduct a new procedure and make a new decision as follows:

It is necessary to repeal the final ruling and to reopen the procedure by laying down the governing principles that are indispensable for resolving the particular legal dispute, even if Act XLI of 2012 on personal transport services, which determines the scope and conditions of minimum service for the future, has come into force in the meantime.

Therefore, the reopened procedure may finish with a decision on the merits concerning the scope and conditions of minimum service by accepting the definitive offer of either party in case the petitioners maintain their application for the previously planned strike. The labour court must examine and evaluate if the solution developed in the petition or the counterclaim on the merits ensures minimum service. In case the definitive offer or either the petitioner or the respondent fails to comply with the above principles of labour law, the court may dismiss the petition. (Curia Mfv. II. 10.855/2011)

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No coercive measure shall be taken against the workers participating in a lawful strike to finish the same and the employees shall exercise the right to strike in cooperation with the employer. The employer may lawfully hire new employees in replacement of the employees on strike only for an activity which qualifies as a basic service (Act XX of 1949, Section 70/C,

Para. (1)-(3) of Section 1, and Para. (1) of Section 4; Act VII of 1989, Act XXII of 1992, point b) of Para. (2) of Section 193/D).

In this matter, the respondent employer gave three months' notice to terminate a collective agreement. In response, the petitioner unions submitted a strike demand to the respondent then announced a strike for an indefinite term. During the strike, the respondent hired fixed-term employees recruited from abroad only for the post of passenger security inspector.

The petitioners filed for the determination that the respondent had violated the provisions of Strike Act by taking a coercive measure against the employees to finish the strike and breached its obligation to cooperate.

The labour court ruled that the respondent had violated the provisions of Para. (2) of Section 1 of Strike Act during the December 2008 strike by taking a coercive measure against the employees to finish the strike. In other respects, it dismissed the petition.

The court found that strikers may not be replaced under the Hungarian laws. While the Strike Act does not explicitly prohibit the hiring of new employees, such conduct contravenes Para. (2) of Section 1 of Strike Act.

Acting at the appeal of both parties, the second instance court approved the first instance court's ruling. It explained that the right to strike as a constitutional fundamental right may only be restricted within statutory limits and this rule is violated by the employer taking measures that jeopardise and frustrate the right to strike.

In its review application, the respondent requested the Curia to repeal the part of the final ruling which approved the petition and to fully dismiss the same.

It disputed that it had taken a coercive measure to force workers on strike to finish the same. The respondent claimed that it had not contravened any convention of the International Labour Organisation (ILO) by hiring the new employees during the strike.

The Curia found the review application well-grounded as follows:

The review application was submitted for determining the unlawfulness of the part in the final ruling which asserted that the respondent had violated the provisions of Para. (2) of Section 1 of Strike Act during the December 2008 strike by taking a coercive measure against the employees to finish the strike and by recruiting and hiring employees to fill passenger security inspector positions for the term of the strike.

The labour court ruling correctly listed the applicable Hungarian laws [Act XX of 1949 on the Constitution of the Republic of Hungary (hereafter: Constitution), Act VII of 1989 on Strike (SA), and Act XXII of 1992 on the Labour Code (hereafter: Labour Code)], and correctly referred to the international rules governing the particular legal matters [European Social Charter, International Labour Organisation – ILO – Conventions No. 87 and 98, positions which emerged in the case law of ILO committees].

By virtue of Para. (1) of Section 70/C of the Constitution, any person may establish an association with others or join one to protect their economic and social interests. By virtue of Para. (2), the right to strike may be exercised within the limits of the relevant Acts.

By virtue of Para. (2) of Section 1 of Strike Act , participation in a strike shall be voluntary and no one shall be coerced to participate in or refrain from the same. No coercive measure may be taken against workers participating in a lawful strike to finish the same. By virtue of Para. (3), when employees exercise their right to strike employers and employees shall cooperate. Any abuse of the right to strike shall be prohibited. By virtue of Para. (1) of Section 4 of Strike Act, the opposing parties shall hold consultation during the strike to resolve their controversies and shall arrange for personal and physical security.

No employee may be lent for work at the borrower's place of work or business site where a strike is organised from the initiation of the pre-strike consultation until completion of the strike [point b) of Para. (2) of Section 193/D of Labour Code]. According to its justification, this provision of the Act protects the interests of borrowed employees and any employees related to the borrower in atypical employment in general. The Labour Code contains no prohibition of this kind concerning other employees.

The Curia agreed with the point in the review application that by virtue of Para. (2) of Section 70/C of the Constitution, the right to strike shall be a special constitutional right which may be exercised within the limits of the relevant Act as provided in the Constitution but since it is not a subjective right, it is not protected by the provisions of Para. (2) of Section 8 of the Constitution, so the legislator is authorised, even if to a limited extent, to regulate the same. As the right to strike is subject to the Constitution it follows that the legislator must ensure the conditions for exercising that right and may only restrict or withdraw the right to strike for a constitutional reason, i.e. to protect a constitutional right or an objective related to a constitutional value (Constitutional Court Decision 88/B/1999).

By virtue of Para. (1) of Section 7 of the Constitution, the legal regime of the Republic of Hungary shall accept the generally recognised rules of international law and ensure the harmony of the assumed obligations of international law with internal law. By virtue of Para. (2) of Section 8, in the Republic of Hungary, the rules on fundamental rights and obligations shall be laid down in Acts but they may not limit the essential content of fundamental rights.

Therefore, on making the decision, there was a need to take into consideration Conventions No. 87 and 98 of the International Labour Organisation (ILO), which contain the fundamental international standards which regulate freedom of association. By ratifying the same, Hungary undertook to take all necessary and appropriate measures to ensure that employees may freely exercise their right to association. To this end, the State shall be obliged to create the rules related to exercising the right to strike in line with this expectation.

By virtue of Para. (4) of Article 6 of Part II of the European Social Charter, promulgated in Hungary by Act C of 1999, the contracting parties commit to recognising the right of workers and employers to take collective action in the case of conflicts of interests, including the right to strike subject to the obligations which may arise from previously adopted collective agreements. By virtue of Article 31, the rights and basic principles defined in Part I may not be subject to any restriction or limitation during their actual implementation and practical application ensured by Part II which has not been explicitly authorised by these Parts, with the exception of statutorily defined restrictions and limitations required for protecting the rights and freedoms of others or the public interest, national security, public health or public morals in a democratic society.

In the case of a lawful strike, the use of labour from sources other than the employer for the purpose of replacing strikers may entail the risk of curtailing the right to strike and this may affect the free exercise of union rights (Extract of the ILO Committee on Freedom of Association's Decisions, 2006. Fifth edition, International Labour Office, Geneva, p. 129, 632 and 633, ILO Expert Committee Report, International Labour Office, Geneva, p. 76, 175).

The first instance ruling correctly referred to the fact that the positions adopted in individual case laws by the ILO's two committees, the Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association are not legally binding.

The foregoing considerations are supported by the fact that the States ratifying the same conventions have enacted different rules to govern whether or not an employer may employ labour in lieu of an employee who is on strike. Italian laws prohibit the hiring of such employees, whether borrowed or employed according to the general rules. The French laws explicitly exclude the replacement of employees lost due to a collective labour conflict,

whereas there is no such prohibition in English and German law. Under German law, an employee hired by labour rental need not work for a borrowing employer which is subject to a direct labour conflict.

The Strike Act does not explicitly prohibit the hiring of new employees for the term of a strike. In a previous decision in principle, the Supreme Court ruled that since strikes inflict losses on employers, they may reduce such losses by instructing employees who do not participate in the strike to perform duties that would otherwise be one of the job responsibilities of other employees who are on strike. To this end, an employer may also order overtime (EBH2000. 361).

In the litigated case, the parties' statements suggest that the strike involved 90-95% of all employees and that none of the passenger security inspectors or security inspectors reported for work on 10 December 2008.

Given the respondent's direct flights to and from several towns across the world, passenger security exceeds the scope of protecting its own property and economic interests considerably since its passenger security inspection function qualifies as a basic service in the strictest sense of the term as accepted by international legal standards. Consequently, the hiring of new employees for activities that exclusively qualify as basic services did not result in the curbing of the right to strike, neither did it qualify as a coercive measure taken to finish the strike and nor did it constitute an abnormal exercise of a right.

The labour court's ruling cited a position of the ILO Committee on Freedom of Association adopted in an individual case, which argues that it is only lawful to hire new employees to neutralise the effect of the strike and to replace the employees on strike if it happens at a company which provides a basic service in the strictest sense of the term.

In consideration of international practices, such basic services include hospital treatment, public utility services, the activities of the police and armed forces, air traffic, etc. but a non-basic service can also become one in the case of an extended strike (such as fuel supply). Consequently, it is fair to conclude that the respondent could lawfully exercise the right to replace the employees on strike for an activity that qualified as a basic service in the strictest sense of the term in this case, based on the conditions described above.

In its review application, the respondent correctly made the point that contrary to the 1985 ILO committee report cited by the first instance court, the changes that had taken place in the meantime had considerably affected and increased the value of passenger security inspection in air traffic. The suspension of this activity could endanger the security of international aviation, not only the lives and personal security of the particular passengers, which is why it may qualify as a basic service.

On these grounds, the Curia repealed the part of the second instance court's ruling which approved the provision in the labour court's ruling which found that the respondent had violated Para. (2) of Section 1 of Strike Act during the strike by taking a coercive measure to force employees to finish the strike. In this respect, the Curia altered the first instance ruling and dismissed the petitioners' claim (Curia Mfv. II. 10.560/2011).

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I. A strike organised in the employees' social interests is lawful. The matter of lawfulness must only be judged by virtue of Act VII of 1989.

II. In the case of multiple strike demands, a strike is lawful if at least one demand is aimed at a lawful objective (Sections 3 and 5 of Act VII of 1989).

The Supreme Court held in the matter that in the context of enforcing workers' economic and social interests, what is relevant is not the nature of the employer's measure (if any) but the existence of such employee interests. On these grounds, the right to strike was lawfully

exercised as a way to enforce an interest against the obligatory overwork due to labour shortage and against the unpredictable working regimes and for basic hygiene facilities and the use of welfare facilities because these demands actually emanated from the employees' social interests and the related objectives did not contravene Para. (1) of Section 3 of Strike Act.

3) KEY DATA AND STATISTICS

Year	Persons participating in strikes (person)	Duration (hour)	Total amount of lost hours	Date of strike	Claim
2009	25	2	50	26. 05. 2009	Claim for payment of unpaid wages
	700	2	1,360	26. 10. 2009	Warning strike due to collective dismissal
	10	4	40	26. 10. 2009	Warning strike due to collective dismissal
	27	10	40	26. 10. 2009	Warning strike due to collective dismissal
	141	12	600	26. 10. 2009	Warning strike due to collective dismissal
	1722	23	4162	26. 10. 2009	Due to reorganisation of the Hungarian State Railways
	181	2.5	453	26. 11. 2009	Claim for payment of unpaid wages
	100	2	200	26. 11. 2009	Payment of afternoon and night supplements, establishment of a national uniform wage system, cancellation of the performance requirement from the number of measures
	228	24	1700	26. 12. 2009	Restoration of the previous collective agreement, compensation of financial losses due to decrease in real wages in the previous years, 10+10 percent increase in wage
2010	2329	..	113,952	12-17. 01. 2009	Maintenance of the level of in-kind payment not in the Labour Code
	65	4	195	12-17. 01. 2010	Solidarity strike, related to the BKV (Budapest Transport Company) strike
	108	2	216	12-17. 01. 2010	Increase in overtime and shift allowance
	356	6	1945	12-17. 01. 2010	Against collective dismissal
	181	2.5	452	12-17. 02. 2010	Claim for payment of unpaid wages
	170	..	13,277	12-17. 02.	Claim for payment of unpaid

				2010	wages of several months
	54	..	3,042	12-17. 09. 2009	Strike of pilots against the 20% decrease in wage
2011	43	8	344	15. 12. 2011	For the payment of unpaid benefits (Cafeteria) allowances
2012	151	2	127	02. 04. 2012	Wage increase
	73	24	168	12-13. 04 2012	Wage increase
	1661	24	4,242	12-13. 04. 2012	Wage increase

Source: *KSH [Central Statistical Office])*

ARTICLE 21: INFORMATION AND CONSULTATION RIGHTS

In order to ensure the efficient exercise of workers' information and consultation rights within the company, the Parties agree to take or support measures which enable workers or their representatives, in harmony with national laws and practices:

a) to receive, regularly or at the appropriate time, comprehensive information on the employer enterprise's economic and financial situation, bearing in mind that it is possible to refuse to disclose certain information which may be disadvantageous for the enterprise, with reference to its confidential nature; and

b) to be consulted in due course about any planned decision which considerably affects workers' interests, especially any decision which may have make an important impact on the enterprise's employment situation.

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

A. Employment-related provisions

The Act I of 2012 on the Labour Code (hereafter: Labour Code) regulates information and consultation among the general rules of labour relations.

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

Information: the provision of legally defined information about labour relations or employment enabling employees to become familiar with and examine such information and to form and represent the related opinion (point a) of Para. (1) of Section 233 of the Labour Code).

Consultation: an exchange of opinions and dialogue between the employer and the works council or the union (point b) of Para. (1) of Section 233 of the Labour Code).

The criteria for relevant consultation are laid down in Para. (2) of Section 233 of the Labour Code. Accordingly, consultation shall be held to reach an agreement and according to the objective identified in the initiative and in a way as to ensure

a) the parties' appropriate representation,
b) a direct, personal exchange of views,
c) relevant negotiations.

Consultation shall delay the implementation of measures. Employers may not implement a planned measure before the earlier of the end of ongoing consultations and a period of at least seven days from the date of the initiative, unless a longer term is agreed otherwise. In the absence of an agreement, the employer finishes the consultation on expiry of such deadline (Para. (3) of Section 233 of the Labour Code).

The efficiency of the right to consult is also reinforced by Section 289 of the Labour Code, which sets out legal consequences in case the rules of consultation are violated.

The employer, the works council or the union may take any violation of the rules governing the provision of information and consultation before a court within five days (Para. (1) of Section 289). The court shall conduct non-contentious proceedings to decide the matter within fifteen days. An appeal shall lie against the court's decision within five days of receipt. The second instance court shall rule within fifteen days (Para. (2) of Section 289).

The new LC Section 234 regulates the exceptions to the obligation to provide information in order to transpose Article 6(2) of Directive 2012/14/EC. Specifically, employers need not provide information or hold consultation if it may involve the disclosure of any fact, information, solution or data which might threaten the employer's lawful economic interests or functioning (Para. (1) of Section 234).

It follows from the nature of the right to information and the parties' obligation to cooperate that the contents of information must serve the enforcement and efficiency of employees' rights to participation and must relate to the functioning of the works council. In other respects, Para. (1) of Section 234 must be interpreted in consideration of other provisions of the new Labour Code and the general rules of conduct, in harmony with the function of rights of participation.

A person acting in the name or interest of the works council or the union may not in any way disclose to the public any fact, information, solution or data explicitly received from the employer confidentially or with reference to treatment as a business secret for the protection of lawful economic interests or its functioning, and may not use the same in any way other than the achievement of the objectives laid down in this Act (Para. (2) of Section 234).

Persons acting in the name or interest of a works council or the unions may only disclose to the public any information learnt while doing so without threatening the employer's lawful economic interests or violating any personal rights (Para. (3) of Section 234).).

In addition, Para. (4) of Section.6 provides, among the general rules of conduct, that all persons subject to the Act shall inform each other of any fact, data, circumstance or changes thereto that are relevant for the establishment of employment or for the exercise of the rights and performance of the obligations laid down in the Act.

Section 38 of the Labour Code lays down a special obligation to provide information whenever the person of an employer change:

The acquiring employer shall inform the employees in writing about the change of employers by supplying the employer's identification data within fifteen days of the acquisition and about the change in the working conditions laid down in Para. (1) Section 46 (Para. (1) of Section 38). In case the transferring employer does not operate a works council and no works commissionaire has been elected as the headcount requirement laid down in Para. (1) of Section 236 is not met, the transferring employer or, as agreed by the employees, the acquiring employer shall inform the affected employees in writing fifteen days in advance about

a) the actual or planned date of transfer,
b) the reason for the transfer,

c) the legal, economic and social consequences affecting the employees, and
d) the planned measure affecting the employees (Para. (2) of Section 28).

To enhance cooperation between the employer and the community of employees and to ensure that employees participate in the employer's decisions, the provisions in new Labour Code about the rights to participate deviate from the former Labour Code (para (1) of Section 235). Employees shall elect a works commissionaire or a works council if average headcount at an employer or at the employer's independent site or division (hereafter: site) exceeds fifteen or fifty persons, respectively, in the period of six months up to the establishment of the elections committee (Para. (1) of Section 236).

Works commissionaires shall be subject to the rules for works councils with the exceptions laid down in Section 268 (Para. (1) of Section 269). Para. (3)-(4) of Section 260 shall be applicable with the proviso that the powers of a works council shall be exercised by the community of employees (Para. (1) of Section 269).

The Labour Code set outs guarantees for works council elections and the related rules are laid down in detail by Government Decree 357/2009 (30 December) on certain matters of works council elections, which came into force on 1 January 2010.

An essential structural change in the Labour Code is that it ensures the exercise of employees' right to participation at every level of decision-making which may affect working conditions and the social situation of employees. To this end, a new institution of participation provides an opportunity to establish group level works councils. This harmonises the structures of business organisations and employees' possibilities of participation.

The Labour Code authorises works councils to develop their principles and rules of operation and only sets out basic rules of operation.

An essential obligation of employers is to ensure the normal operation of works councils, including the obligation to enable works councils to disclose information, notices and data related to their activities which they find important in the manner which is usual with the employer or in any other appropriate manner. Works councils shall develop rules of procedure to regulate their operations (Para. (3) of Section 259).

Regarding the information and consultation rights, the rights of a works council especially include the following:

- Right to information and to start negotiations

In order to perform their responsibilities, works councils may request information and initiate negotiations by giving reasons, which may not be rejected by employers (Para. (2) of Section 262).

- *The obligation of employers to provide information*

The Labour Code lays down the cases when employers are obliged to provide information exactly as the former Labour Code.

Accordingly, employers shall inform works councils semi-annually about

a) any matter related to their economic situation,

b) any change in wages, liquidity related to wage payment, characteristics of employment, the use of working hours, the characteristics of working conditions,

c) the number of employees hired by the employer and their job titles (Para. (3) of Section 262).

- The obligation of employers to ask for opinions

An essential guarantee for cooperation and the enforcement of employees' right to participation is the obligation of employers to ask for opinions. Section 264 of the Labour Code regulates in a more modern and detailed manner the performance of this obligation by incorporating further cases.

Before making a decision, the employer shall ask the works council to express its opinion about the drafts of the employer's *measures and regulations which affect major groups* of at least fifteen days in advance (Para. (1) of Section 264).

In this context, employer's measures shall include *but are not limited to*

a) the employer's reorganisation, transformation, the transformation of an organisational unit to an independent organisation,

b) the introduction of production and investment programs and new technologies and the modernisation of the existing ones,

c) the management and protection of the employees' personal data,

d) the application of technical means used to monitor employees,

e) any measure taken to create healthy and safe working conditions and to promote the prevention of works accidents and occupational diseases,

f) the introduction and amendment of new work management methods and performance requirements,

g) training plans,

h) the use of employment promotion aids,

i) any draft measure to rehabilitate employees with health impairments or reduced capacity to work,

j) the determination of the working regime,

k) the determination of the principles of remuneration,

l) any environmental protection measure related to the employer's operations,

m) any measure to observe the requirement of equal treatment and to ensure equal opportunities,

n) the harmonisation of family life and work activities,

o) any other measure laid down in the employment rule (Para. (2) of Section 264).

The employer and the works council may reach a works agreement to lay down the detailed rules for the employer's performance of its obligation to ask for opinions, and may agree to establish cooperation in addition to the instances listed in Section 264 of the Labour Code. In this context, the works agreement may contain minimum requirements, i.e. it may not restrict the provisions of Sections 262-265 by virtue of Para. (6) of Section 267 of the Labour Code.

The Labour Code breaks away from the solution in Section 67 of the former Labour Code, according to which any of the employer's measures that violated Para. (1)-(3) of Section 65 of the former Labour Code were invalid. Basically, the Act deviates from this solution as the scope of employers' measures included rather different decisions in terms of function, effect

and weight. In case the employer and the works council disagree or in case the employer failed to perform Section 264 also by virtue of the works agreement, the parties may hold consultations according to Part Four of the Labour Code and may appoint an arbitrator.

- Joint decision-making

The employer and the works council shall jointly decide on the use of funds for welfare purposes (Section 263).

The Act fundamentally changed the right to "joint decision-making" in Para. (1) of Section 65 of the former Labour Code. Previously, the right to joint decision-making related to the utilisation of funds and institutions/properties for welfare purposes regulated by the collective agreement.

- Obligation to inform employees through the works council

The works council is a representative body of the community of employees which is generally responsible for monitoring the enforcement of employment rules and participating in the employer's decision-making. The works council is responsible for performing these duties before the community of employees. Therefore, the Act contains new provisions concerning the obligation of works councils to provide information, as laid down in Para. (4) of Section 262. The works council shall semi-annually inform employees about its activities.

One of the objectives of the regulation of the works agreement which is signed to promote cooperation between the employer and the works council is to promote the exercise of the works council's rights.

- Right to sign a works agreement

The employer and the works council may sign a works agreement to enforce the provisions of Chapter XX of the Labour Code and to promote their cooperation (Para. (1) of Section 267). A works agreement may be signed for a fixed term but no longer than the works council's mandate (Para. (2) of Section 267). Accordingly, the works agreement may detail the exercise of the works council's rights in harmony with the Labour Code.

In the case of collective redundancies, special provisions shall apply to the obligation to negotiate with the works council.

Where an employer plans to implement collective redundancies, it shall inform and negotiate with the works council (Para. (1) of Section 72).

No later than seven days before negotiations start, the employer shall inform the works council in writing about

a) the grounds for the planned collective redundancies,

b) the number of employees affected by the planned redundancy broken down by groups of employment or

c) the number of employees hired in the period laid down in Para. (1) of Section 71,

d) the planned duration and scheduling of dismissals,

e) the selection criteria, and

f) the condition and amount of the benefit related to the termination of employment, in deviation from the employment rule (Para. (2) of Section 72).

The employer's obligation to negotiate shall exist until the execution of the agreement or, in the absence thereof, for fifteen days after the negotiation (Para. (3) of Section 72).

In order to reach an agreement, negotiations shall cover
a) the potential way and means to avoid the collective redundancies,
b) the principles of the collective redundancies,
c) the means used to mitigate the consequences of the collective redundancies, and
d) the reduction of the number of affected employees (Para. (4) of Section 72).

The agreement signed during the negotiation shall be made in writing and sent to the public employment body (Para. (5) of Section 72).

The employer shall file a written report with the public employment body about its intention to make collective redundancies and the data and circumstance laid down in Para. (2) of Section 72 and shall deliver a copy of the report to the works council (Para. (1) of Section 74).

The employer shall give the affected employees written notification of its decision to make collective redundancies no later than thirty days before giving notice or immediate notice by virtue of point b) of Para. (1) of Section 79. Notice and immediate notice may be given thirty days after such information was provided (Para. (1) of Section 75). Information laid down in Para. (1) shall be sent to the works council and the public employment body (Para. (2) of Section 75).

With effect from 1 August 2011, Act CV of 2011 on the amendment of certain labour and other related acts for legal harmonisation purposes (hereafter: Módtv.) introduced a comprehensive amendment to Act XXI of 2003 on the establishment of a European Works Council and the development of a procedure for informing and consulting employees (hereafter: Euüt.) to transpose Directive 2009/38/EC of the European Parliament and of the Council on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees. Below we present the provisions of the Euüt. that govern information and consultation rights.

Para. (1) of Section 55 of Módtv. amended Para. (1) of Section 1 of Euüt. as follows with effect from 1 August 2011:

"(1) In order to reinforce the information and consultation rights of employees of Community-scale undertakings and groups of undertakings, a European Works Council shall be established according to the request laid down in Para. (1) of Section 3 or a procedure shall be developed for the purposes of informing and consulting employees at all Community-scale undertakings and groups of undertakings. In the case of the relevant agreement or, in the absence of thereof, the establishment of the European Works Council and the procedure for the purposes of informing and consulting employees shall be subject to the provisions of this Act. Arrangements for informing and consulting employees shall be defined and applied by ensuring efficiency and allowing for efficient decision-making inside the undertaking or group of undertakings."

In addition, Para. (2) of Section 55 of Módtv. incorporated Para. (3a) of Section 1 in Euüt.:

"(3a) The management of any undertaking within a Community-scale group of undertakings and the central management or the presumed central management of a Community-scale undertaking and group of undertakings shall be responsible for acquiring information which is indispensable for starting the negotiations of the special negotiating body, including especially the structure and headcount of the undertaking or group of undertakings, and for forwarding such information to interested parties (employees and their representatives). Regarding the headcount of employees, this obligation shall particularly apply to information laid down in points a) and c) of Para. (1) of Section 2."

Para. (1) of Section 56 of Módtv. amended the concept of consultation in point e) of para, (1) of Section 2 of Euüt. as follows:

"e) consultation: the establishment of dialogue and exchange of views between employees' representatives and the central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to management responsibilities, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings;"

In addition, Para. (2) of Section 56 of Módtv. incorporated point i) of Para. (1) of Section 2 in Euüt., which defines the concept of information:

"i) information: transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it, enabling employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or group of undertakings."

Section 57 of Módtv. amended the rules for developing the procedure to inform and consult employees and thereby Para. (2) and (3) of Section 4 of Euüt. were replaced by the following provisions:

"(2) The members of the special negotiating body shall be appointed from among the employees of the Community-scale undertaking or group of undertakings. The number of members shall be determined in proportion to the number of employees employed by the undertaking or group of undertakings in the particular Member State by allocating in respect of each Member State one seat in the special negotiating body per ten percent of the number of employees employed in all Member States. On nominating members of the special negotiating body, arrangements shall be made to nominate substitute members.

(3) Where

a) at least twenty-five but less than fifty percent of the employees employed by the Community-scale undertaking or group of undertakings are employed in the particular Member State, one more employee representatives,

b) at least fifty percent but less than seventy-five percent of the employees employed by the Community-scale undertaking or group of undertakings are employed in the particular Member State, two more employee representatives,

c) at least seventy-five percent of the employees employed by the Community-scale undertaking or group of undertakings are employed in the particular Member State, three more employee representatives
may be delegated to the special negotiating body in addition to the number which may be determined by virtue of Para. (2).”

Para. (1) of Section 58 of Módtv. amended Para. (1) of Section 6 of Euüt.as follows:

“(1) After the establishment of the special negotiating body, the central management shall immediately inform the manager of each site and undertaking of the Community-scale undertaking or group of undertakings, the employees’ representative bodies and the competent European organisations of employees and employers about the names and addresses of the special negotiating body’s members and the initiation of the negotiations. The Minister in charge of employment policy shall post on the Government’s official information website the email addresses where information must be provided.”

Para. (2) of Section 58 of Módtv. amended Para. (4) and (5) of Section 6 of Euüt.as follows:

“(4) Before negotiating with the central management, the special negotiating body may hold a separate session where it may use the services of an expert. Persons eligible for appointment as experts shall include recognised and competent Community-scale employee representatives. Such experts and the representatives of employee organisations shall take part at the sessions in the capacity of advisors at the special negotiating body’s request.
(5) The special negotiating body may decide with at least a two-third majority of the votes not to start the negotiations laid down in Para. (2) or to terminate the negotiations in progress. Such a decision shall also terminate the procedure aimed at the agreement laid down in Sections 7-8. The document containing the decision shall be signed by the president and a member of the special negotiating body and shall be sent immediately to central management.”

Para. (3) of Section 58 of Módtv. extended Section 6 of Euüt. with Para. (8) as follows:

“(8) The special negotiating body may hold sessions before and after all sessions of central management without the latter participating. At such sessions, the means required for information shall be provided to the special negotiating body.”

Section 59 of Módtv. incorporated Section 6/A in Euüt.:

“6/A(1) In the event of a considerable change in the organisation of the Community-scale undertaking or Community-scale group of undertakings, especially merger, acquisition of a dominant influence or de-merger, provided that
a) the agreements in force do not contain any relevant provision, or
b) the provisions of the two or more applicable agreements are incompatible,
the central management shall start negotiations at its own initiative or on the written motion made by one hundred employees employed by at least two undertakings or sites in at least two Member States or by the representative bodies of such employees in order to establish a European Works Council or to arrange negotiations for informing or consulting employees. Such negotiations shall be subject to the provisions of Sections 3-6 with the deviations laid down in this Section.
(2) In the case laid down in Para. (1), the members of the special negotiating body shall be:

a) the members appointed by virtue of Para. (2) and (3) of Section 4, and

b) at least three members of the existing European Works Council or the existing European Works Councils.

(3) During the negotiations, the members of the existing European Works Council or the existing European Works Councils shall operate according to the rules potentially adjusted by virtue of an agreement between the members of the European Works Councils and central management. The agreement shall be subject to Sections 7-8/A.

(4) In case no agreement is reached during the negotiations for any reason, including the cases laid down in Section 9, the establishment and operation of the European Works Council shall be governed by Sections 10-23."

Para. (4) of Section 60 of Módtv. extended Section 7 of Euüt. with with the following Para. (4):

"(4) The rules for the relation between the information to and consultation with the European Works Council and the employees' representative bodies shall be established by the agreement regulated by this Section and Section 8. Such agreement may not be contrary to the provisions of Act XXII of 1992 on the Labour Code on informing and consulting employees."

Para. (1) of Section 64 of Módtv. amended Para. (3)-(4) of Section 16 of Euüt. as follows:

"(3) Employees shall be informed and consulted at the appropriate level of management and representation depending on the subject matter discussed. The European Works Council's competence, activities and information to and consultation with employees subject to this Act may only cover transnational matters.

(4) Transnational matters shall include all matters which affect:

a) the whole of the Community-scale undertaking or Community-scale group of undertakings, or

b) at least two sites or undertakings within the group of undertakings of the Community-scale undertaking or a Community-scale group of undertakings situated in two different Members States.

Transnational matters shall also include matters that are significant in terms of their potential effects on community employees irrespectively of the number of affected Member States or those that involve the delegation of activities between Member States. In identifying the transnational nature of any matter, its potential effects and the level of management and representation concerned shall be taken into consideration."

Para. (2) of Section 64 of Módtv. amended point d) of Para. (5) of Section 16 of Euüt. as follows:

"Information and consultation about the economic situation of Community-scale undertakings or groups of undertakings and its expected changes shall especially include:

...

d) the situation of investments and investment programs and their expected development trends;"

Para. (3) of Section 64 of Módtv. amended point i) of Para. (5) of Section 16 of Euüt. as follows:

"Information and consultation about the economic situation of Community-scale undertakings or groups of undertakings and its expected changes shall especially include:
...
i) the reduction, downsizing, close-down or winding-up of undertakings, sites or plants or business units that are essential in terms of operation;"

Para. (1) of Section 65 of Módtv. amended Para. (3) of Section 17 of Euüt. as follows:

"(3) The session mentioned in Para. (2) shall be held as soon as possible according to the report of the central management or the appropriate level of management of the Community-scale undertaking or group of undertakings. The European Works Council and the management committee may express its view about the matters arisen at the end of the session or within a reasonable time after the session."

Para (2) of Section 65 of Módtv. added the following para (5)-(6) to Section 17 of Euüt.:

"(5) The European Works Council and the management committee, including the extended management committee by virtue of para (2) of Section 17, may hold sessions without the central management's participation before negotiating with the same.
(6) Information and consultation by virtue of this Section may not violate the principles regulated by Para. (1) of Section 1 or the provisions laid down in Section 19."

Section 67 of Módtv. amended Section 20 of Euüt. as follows:

"20(1) The labour protection of the members and substitute members of the European Works Council and the special negotiating body employed domestically shall be subject to the rules on the works council members.
(2) The European Works Council members shall jointly represent, without prejudice to the competence of other representative and participatory organisations of employees, the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings, and shall have the means required for exercising the rights granted to the European Works Council, including the launching of legal disputes related to the violation of employees' information and consultation rights.
(3) The members of the European Works Council shall inform the representatives of employees at the sites or undertakings within the Community-scale group of undertakings or, in the absence of such representatives, the community of employees without prejudice to Section 19, about the content and result of the information and consultation procedure.
(4) After the expiry of their mandates, the European Works Council members shall report to the employees at the sites or undertakings within the Community-scale group of undertakings or, in the absence of such representatives, to the community of employees."

Section 68 of Módtv. extended Euüt. with the following Sections 21/A-21/C:

"21/A Consultation shall enable employees' representatives to negotiate with central management and to receive a written answer with justification to any of their opinions or comments.
21/B(1) The members of the special negotiating body and the European Works Council may receive training provided that it is required for their representative work performed in an international environment. The minimum period available for training may be laid down by the parties in an agreement.

(2) Training required for representative work in an international environment shall especially include training aimed at knowledge necessary for needs that are related to the understanding of the international structure, strategy, background of legal and labour relations of the Community-scale undertaking or group of undertakings, and to the practical requirements of the European Works Council's activity, including communication skills and the command of foreign languages.

(3) Applications for training shall include information about training needs, contents and other essential data as well as a justification that training is required for representative work in an international environment.

(4) The application for training may not be rejected if training is reasonably required for the representative work of the members of the special negotiating body and the European Works Council in an international environment.

(5) The members of the special negotiating body and the European Works Council shall be entitled to their fees of absence for the term of training.

21/C(1) The European Works Council shall be informed and consulted in connection with the information to and consultation with national bodies of employee representation, respecting their competence and scope of activities as well as the principles regulated by Para. (1) of Section 1 and Para. (3) of 16. If the national bodies of employee representation must also be informed about any matter within the competence of the European Works Council pursuant to Act XXII of 1992 on the Labour Code, they shall be informed at the same time.

(2) If any decision is expected to make a considerable impact on work management or employment agreements, the European Works Council and the national bodies of employee representation shall also be informed and consulted, where the agreement regulated by Sections 7-8 does not include such provision."

Section 69 of the Act amended Para. (1) of Section 23 of Euüt. as follows:

"(1) The court shall conduct non-contentious proceedings to resolve within fifteen days any legal dispute between the persons listed in Para. (3) of Section 1 and the European Works Council, the members of such European Works Council, the employees, the works council and the union about the agreement on the establishment of the European Works Council, the development of a procedure to inform and consult employees, and about the statutory provisions on the European Works Council and on the rights and obligations regulated by this Act of the special negotiating body, the European Works Council and its members."

B. Provisions on public servants

The rules of Act XXXIII of 1992 on the legal status of public servants (hereafter: Kjt.) governing the right of the public servants' council to joint decision-making have been amended so as to harmonise the Kjt. with the Labour Code with effect from 1 July 2012. By virtue of Para. (2) of Section 16 of Kjt., the public servants' council may jointly decide on the use of funds for welfare purposes laid down in a collective agreement. In other words, the right to joint decision-making on the use of institutions and properties has been abolished.

On the other hand, regarding the obligation to ask for opinions, the text "early retirement" in point d) of Para. (2) Section 16 of Kjt. has been deleted for the sake of harmonisation with Act CLXVII of 2011 on the termination of early former-age pensions, early benefits and service benefits with effect from 1 January 2012.

In other respects, by virtue of Section 19 of Kjt. amended with effect from 1 July 2012, public servant status shall not be subject to Para. (2) Sections 235, 251 and 268 of the Labour Code provisions on works councils (Chapter XX).

C. Provisions on public officials

Para (3) of Section 9 of Act CXCIX of 2011 on Public Officials (hereinafter: Kttv.) has set out as a general conduct obligation that persons subject to the Kttv. shall inform each other of any facts, data, conditions or changes thereof that are important with regard to the establishment of public service and the exercise of the rights and fulfilment of the obligations provided for in this Act.

However, certain conduct obligations with regard to information have also been determined for public officials by Para. (3) of Section 10 of the Kttv. according to which public officials are obliged to safeguard all classified data which comes to their notice. In addition, public officials shall not provide unauthorised people and authorities with facts that have come to their notice during their activities if their disclosure would result in adverse or unlawfully beneficial consequences for the government, a public administrative body, their colleagues or a citizen.

Government Decree 30/2012 (III. 7.) contains the content of the main obligations of the employer to provide information with regard to the public service and government service relationship – regulated previously at statutory level – and the deadline for their delivery, and further detailed rules. Section 8 of Government Decree No. 30/2012 (III. 7.) contains the obligations of the employer to provide information related to the appointment of a public official (this was previously included in Para. (7) of Section 11 of Act XXXII of 1992 on the legal status of public servants) covering the regular work hours, the date of commencement of service time giving rise to entitlement to jubilee benefits, the expected date of reaching the next classification and payment category, the other allowances and their amount, the transfer date of remuneration, the date of commencement of employment, the rules on determining the notice period, the number of days of paid annual leave and the procedures for determining and allocating such leave, and the person exercising the rights of the employee. In addition, pursuant to Section 9 of Government Decree 30/2012 (III. 7.), the employer has an obligation to provide information with regard to which jobs can be performed on a part-time basis, in teleworking or in the framework of a definite and indefinite legal relationship. Pursuant to Section 10 of Government Decree 30/2012 (III. 7.), employers also have an obligation to provide specific information prior to travel to a foreign country if public officials are employed in a different way than stipulated in their appointments. Pursuant to Para. (5) of Section 11 of Government Decree 30/2012 (III. 7.), the employer has the same obligation to provide information with regard to a public official employed in teleworking as with regard to any other public official.

The further extension of the right to information and consultation had the consequence that the Hungarian Government Officials Corps (hereinafter: MKK), which is a self governing professional and representative public body in the public administration sector based on the mandatory membership of government officials, was established in 2012. The priority aim of establishing the MKK was to develop a common value-based, uniform professional group which can contribute to strengthening the confidence of citizens in administrative functioning.

To this end, the interest representation provided by the MKK covers a broader scope of activities than protection of interest. It is to advance the endeavours of the whole public administration profession. Pursuant to Para. (6) of Section 29 of the Kttv., the MKK shall, inter alia, contribute to establishing Acts influencing the employment and conditions for practice of the profession of a government official, and related to the professional exams required for a government official and legislation concerning the MKK, by exercising its right to consultation. The opinion of the MKK shall also be requested in issues related to government service legal relationships and in the context of provisions of the central and social security budget concerning people in government service legal relationships, as well as questions of interest related to the management of the administrative labour force and personal allowances. Pursuant to Para. (7) of Section 29 of the Kttv., the opinion of the regional body of the MKK shall be requested by the head of the state administrative body concerning regulation referred to the employer in relation to the work, working time and rest period, and the rewarding and allowances of a government official. The MKK working at a regional level is entitled to give its opinion on a measure of the employer taken by a state administrative body with municipal or county responsibility concerning a group of government officials or the draft thereof; it is entitled to initiate a consultation in this context. The state administrative body shall not be obliged to give information or carry out a consultation pursuant to Para. (8) of Section 29 of the Kttv. if this might result in the disclosure of facts, information, solutions or data that would endanger the interests or functioning of public service or the legitimate interests or functioning of a state administrative body. Pursuant to Para. (9) of Section 29 of the Kttv., members of the MKK are not entitled to disclose in any way any facts, information, solutions or data brought to their knowledge, with an express reference to managing it as confidential or classified data for the purposes of legitimate interests or functioning of the state administrative body and protection of interests and functioning of public service, and they are not entitled to use it in any way in activities not aimed at reaching the objectives laid down in this Act. Pursuant to Para. (10) of Section 29 of the Kttv., members of the MKK are entitled to disclose information acquired in the course of their duties only without endangering the legitimate interests or functioning of a state administrative body and the interests or functioning of public service, and without violating individual rights.

Para. (1) of Section 196 of the Kttv. specifies the definition of information used in the framework of (central and workplace) interest reconciliation – in addition to the definition of consultation – according to which the provision of information means providing information about labour relationships and government service legal relationships in a way which makes it possible to understand and examine the information and to prepare and present a related opinion.

Pursuant to Sections 200-202 of the Kttv. the opinion of a trade union shall be requested by the head of the state administrative body with regard to regulations referring to the employer in relation to work, working time and rest periods, as well as the rewarding and allowances of a government official during workplace interest reconciliation; Para (2) of Section 200 of the Kttv.]. In addition, the trade union is entitled to give its opinion on a measure by the employer concerning a group of government officials or the draft thereof to the state administrative body; it is entitled to initiate a consultation in this context [Para (3) of Section 200 of the Kttv.]. The trade union is also entitled to request information and make proposals on every other issue.

Trade unions shall have the right to inform government officials about issues related to labour relationships or employment at the workplace [Para. (7) of Section 200 of the Kttv.]. Trade unions shall have the right to represent their members before state administrative bodies, and representative organisations thereof, with regard to their rights and obligations concerning their financial, social, cultural, as well as living and working conditions, and to represent – by delegation – their members before courts, authorities or other bodies for the purposes of protecting their economic and social interests [Para. (8) and (9) of Section 200 of the Kttv.].

Para.s (2-4) of Section 196 of the Kttv. set the limits of the right to information and consultation in the framework of interest reconciliation with the same content and intent as in Para. (8-10) of Section 29 of the Kttv. already referred to.

See also Article 6 with regard to the right to consultation.

D. Provisions on professional members of the armed forces and Hungarian Defence Forces

Para. (1-4) of Section 33/B of Act XLIII of 1996 on the service relationship of professional members of the armed forces (hereinafter: Hszt.) contain the following provisions on this subject:

"(1) For the purposes of this Chapter, the provision of information means providing information about service relationships in a way which makes it possible to understand and examine the information and to prepare and present a related opinion.
(2) Armed forces shall not be obliged to give information if this would result in the disclosure of facts, information, solutions or data that endangers the interests of law enforcement or the legitimate interests or function of the armed forces.
(3) Persons acting on behalf or in the interest of a trade union are not entitled to disclose in any way any facts, information, solutions or data brought to their knowledge with an express reference to handling it as confidential or classified data for the purposes of legitimate interests or functioning of the armed forces and protection of interests and function of public service, and they are not entitled to use it in any way in activities not aimed at reaching the objectives laid down in this Act.
(4) Trade union members are entitled to disclose information acquired in the course of their duties only without endangering the legitimate interests or function of the armed forces and the interests or functionof law enforcement, and without violating individual rights."

Pursuant to Para. (1) of Section 31 of the Hszt., the Hungarian Body of Law Enforcement Agencies (MRK) is entitled to bring a case before the head of the state body competent in any given issue in any case affecting its responsibilities and competences; and
a) it is entitled to request information, data and guidance on law interpretation,
b) it is entitled to make a proposal or initiate a measure,
c) it is entitled to deliver an opinion on the functioning of an authority controlled by it, as well as on the legislation, instruments regulating public legal organisations or other decisions – concerning a group of members of the MRK – issued by it; it is entitled to initiate an amendment or withdrawal of an opinion.

2) KEY DATA AND STATISTICS

Distribution of works council elections by county

Number of electable members	**1**		**3**		**5**		**7**		**9**		**11**		**13**			
County	**employer**	**numberof participants**	**employer**	**number of participants**	**employer**	**number of participants**	**employer**	**number of participants**	**employer**	**number of participants**	**employer**	**number of participants**	**employer**	**number of participants**	**total number of employers**	**total number of participants**
Budapest	9	220	17	1,014	28	3,561	20	5,058	13	5,635	7	6,493	11	70,865	**105**	**92,846**
Baranya County	0	0	0	0	2	205	3	852	1	548	1	1,146	0	0	**7**	**2,751**
Bács-Kiskun County	6	126	8	459	4	398	0	0	4	1,771	2	1,720	0	0	**24**	**4,474**
Békés County	3	85	2	127	6	714	2	475	3	1,341	0	0	0	0	**16**	**2,742**
Borsod-Abaúj-Zemplén County	2	48	2	91	4	482	1	280	3	896	1	1,071	0	0	**13**	**2,868**
Csongrád County	2	50	0	0	3	251	1	269	2	1,013	0	0	0	0	**8**	**1,583**
Fejér County	0	0	1	49	3	440	1	299	2	762	0	0	2	10,884	**9**	**12,434**
Győr-Moson-Sopron County	4	127	3	148	1	216	1	256	6	2,509	1	1,133	0	0	**16**	**4,389**
Hajdú-Bihar County	2	48	3	157	8	993	2	505	2	840	3	2,598	0	0	**20**	**5,141**
Heves County	2	36	3	166	6	745	1	223	5	2,585	0	0	0	0	**17**	**3,755**

Komárom-Esztergom County	2	63	6	337	5	515	0	0	5	2,486	0	0	0	0	**18**	**3,401**
Nógrád County	0	0	1	78	0	0	0	0	1	437	0	0	0	0	**2**	**515**
Pest County	2	54	3	142	6	885	0	0	2	263	0	0	0	0	**13**	**1,344**
Somogy County	0	0	3	176	3	424	1	369	0	0	1	1,183	0	0	**8**	**2,152**
Szabolcs-Szatmár-Bereg County	2	66	2	94	3	476	1	220	0	0	0	0	1	1,781	**9**	**2,637**
Jász-Nagykun-Szolnok County	0	0	3	136	2	273	0	0	1	541	0	0	0	0	**6**	**950**
Tolna County	0	0	1	53	5	470	3	837	1	380	0	0	2	3,371	**12**	**5,111**
Vas County	2	68	3	154	4	582	1	221	2	706	2	1,438	0	0	**14**	**3,169**
Veszprém County	3	100	1	30	1	58	2	185	2	533	1	409	1	860	**11**	**2,175**
Zala County	0	0	4	264	11	1,413	0	0	0	0	0	0	0	0	**15**	**1,677**
Total in Hungary	**41**	**1091**	**66**	**3675**	**105**	**13101**	**40**	**10049**	**55**	**23246**	**19**	**17191**	**17**	**87761**	**343**	**156114**

Source: *NMH (Hungarian Labour Inspectorate)*

ARTICLE 22: RIGHT TO PARTICIPATION IN DETERMINING AND IMPROVING WORKING CONDITIONS AND THE WORKING ENVIRONMENT WITHIN UNDERTAKINGS

In order to ensure the efficient enforcement of the right of workers to participate in the determination and improvement of working conditions and the working environment within the undertaking, the Parties agree to adopt and encourage measures which enable workers or their representatives to contribute, in harmony with the national laws and practices, to:

a) determining and improving working conditions and the working environment;
b) protecting health and security within the undertaking;
c) organising social and socio-cultural services and facilities within the undertaking;
d) monitoring the observation of the relevant regulations.

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

With effect from 1 January 2012, Article XX of the Fundamental Law regulates industrial safety as follows:

"(1) Every person shall have the right to physical and mental health.
(2) Hungary shall promote the exercise of the right set out in Para. (1) (...), by managing industrial safety and healthcare (...)."

Section 29 of Act CV of 2011 on the amendment of certain labour Acts and other related Acts for legal harmonisation (hereafter: Módtv.) amended Para. (3) of Section 70/A of Act XCIII of 1993 on industrial safety (hereafter: Mvt.) with effect from 1 August 2011 as follows:

"(3) Industrial safety officers shall be elected by equal, secret and direct vote for five years. Employees shall be informed about the identity of the elected industrial safety officers. The regime of the election, the termination of mandate, the removal and the scope of operation of industrial safety officers shall be subject to the corresponding provisions of Act XXII of 1992 on the Labour Code (hereafter: former Labour Code) on the works council members and the works commissionaire, including the option to set up a central industrial safety committee."

The amendment was proposed by the employers in order to reduce employers' administration and costs. As a result, the Act standardised the election of works councils (commissionaires) and the industrial safety officer at the employer.

In addition, Section 30 of Módtv. amended Mvt. Para. (5) of Section 70/B in the sense that the ordinary and substitute members of the body shall serve for five years. The amendment aimed at reinforcing employees' rights to participate in the employer's operation by uniformly raising the election cycles to 5 years. Since the simultaneous election of works council members and industrial safety officers was a temporary provision, Módtv. Section 31 extended the Mvt. with the following Section 89:

"89. § After Act CV of 2011 on the amendment of certain labour Acts and other related Acts for legal harmonisation (hereinafter: Módtv.) comes into force, the new industrial safety officer shall first be elected until expiry of the mandate of the industrial safety officer in office

at the coming into force of the Módtv. by virtue of the rules in force before the coming into force of the Módtv. but no later than four years after the coming into force of the Módtv."

As of the coming into force of Act I of 2012 on the Labour Code (hereafter: Labour Code), the simultaneous election of works council members and industrial safety officers no longer need to be taken into consideration.

By virtue of Para. (3) of Section 76 of Mvt., the industrial safety officer's labour protection shall continue to be subject to the corresponding rules on elected union officers, with the understanding that the direct superior union body shall mean the committee or, in the absence thereof, the employees electing the industrial safety officer.

Accordingly, for the purposes of Para. (3) of Section 76 of Mvt,the following provisions of the Labour Code shall be taken into consideration:

"Section 273(1) The employer may only terminate by notice the employment of the employee serving as the elected union officer (hereafter: officer), designated by virtue of Para. (3), and may only take the measure affecting such officer laid down in Section 53 with the agreement of the direct superior union body.
(2) The officer shall be entitled to protection laid down in Para. (1) for the term of his or her mandate and for six months after expiry of his or her mandate provided that he or she has held such office for at least twelve months. (….)

(6) The union shall submit a written position on the employer's measures laid down in Para. (1) within eight days of receipt of the employer's written information. If the union disagrees with the planned measures, it shall give reasons for its disagreement. If the union fails to express its view within the above deadline, it shall be understood that it agrees with the planned measures."

Employees shall elect the industrial safety officer by virtue of Section 70/A of Mvt. according to the Labour Code provisions on works council members.

C. Provisions on public officials

In addition to the rights of trade unions to information and consultation already referred to in Sections 6 and 21, the Hungarian Government Officials Corps (hereinafter referred to as: MKK), established on 1 March 2012, has rights to consultation, give an opinion or make a proposal, etc. – partly referred to already in Article 21 – in respect of the working conditions of government officials both at a national and a regional level. Pursuant to point (f) of Para. (6) of Section 29 of the Kttv., the MKK has the right to initiate with the Government the establishment and amendment of Acts affecting living, working and employment conditions and the professional practice of government officials.

C. Provisions on professional members of the armed forces and Hungarian Defence Forces

Para. (1-2) of Section 31 of Act XLIII of 1996 on the service relationship of professional members of the armed forces (hereinafter: Hszt.) provide the following on this subject:

"(1) The Hungarian Body of Law Enforcement Agencies is entitled to bring a case before the head of the state body competent in any given issue in any case affecting its responsibilities and competences; and
a) it is entitled to request information, data and guidance on law interpretation (hereinafter referred to as: information)
b) it is entitled to make a proposal or initiate a measure,
c) it is entitled to deliver an opinion on the functioning of an authority controlled by it, as well as on the legislation, instruments regulating public legal organisations or other decisions issued by it; it is entitled to initiate an amendment or withdrawal of an opinion.
(2) The requested authority shall reply to the request in a substantive way within 30 days. If the information, reply or measure does not fall within the competence of the requested authority, then the authority shall transfer the request to the competent body within three days and simultaneously inform the holder of rights of this.

Pursuant to paragraph 3 of Article 31 of the Hszt.:

"(3) The Prosecution Service of Hungary shall exercise control of legality over the Hungarian Body of Law Enforcement Agencies. The control of legality does not extend to cases in which there is recourse to labour disputes, court proceedings or public administration procedures."

2) KEY DATA AND STATISTICS

Measures taken with regard to labour safety in 2009-2012 broken down by the orientation and number of measures

Orientation of labour safety measures	**2009**	**2010**	**2011**	**2012**
Secure space for movement, lack of space for service and maintenance	2,008	2,800	2,163	1,810
Danger of falling into or off of structures	5,682	4,304	2,603	1,974
Establishment and state of traffic routes (including doors and windows)	2,959	3,687	3,108	2,362
Security technology shortcomings related to energy supply of facilities (electricity, gas etc.)	529	939	805	386
Electric shock protection of facilities	2,758	3,237	3,298	2,498
Failure to apply labour safety standards	962	1,261	1,019	525
Failure to carry out periodic safety inspections	1,071	1,371	1,149	654
Failure to carry out special inspection	23	87	87	69
Failure or shortage of protection equipment	1,129	896	667	696
Lack of risk assessment for hazardous work procedures, technological processes, work equipment (Class I hazard category)	1,456	1,276	1,035	731
Lack of risk assessment for non-hazardous work procedures, technological processes, work equipment, activities	1,397	1,892	1,907	1,599
Incomplete or erroneous risk assessment for hazardous work procedures, technological processes, work equipment, activities	2,390	2,688	1,843	849

Incomplete or erroneous risk assessment for non-hazardous work procedures, technological processes, work equipment, activities	1,610	3,124	2,268	1,189
Lack of qualification (service permit)	373	347	366	241
Lack of labour safety knowledge	1,549	2,518	2,532	2,009
Other reasons for the lack of ability to work (medicines, drugs, etc.)	22	35	28	19
Construction (type error) or design error of work equipment safety	298	931	665	513
Lack or inadequate content of CE marking on work equipment	43	51	39	25
Lack or inadequate content of EC declaration of conformity of work equipment	20	65	45	24
Lack or inadequate content of Hungarian instructions for operation (use) or for maintenance	610	931	780	617
Placement, installation and fastening	2,616	3,761	3,701	3,103
Security technology shortcomings related to operation (protective cover, safety equipment, etc.)	16,202	14,069	11,212	6,915
Electric shock protection problems of work equipment (also switch-box)	6,902	6,358	5,816	5,584
Shortcomings in electronic extension cords and feeder cables (appliances, insulation, placement)	1,881	3,065	2,786	3,236
Non-compliance with construction and commissioning rules of lifting machinery	136	421	384	312
Non-compliance with operating rules of lifting machinery	5,253	5,657	4,241	3,231
Failure to carry out preliminary or periodic safety inspections, review of non-hazardous work equipment	522	1,308	977	642
Lack or error of safety equipment of hazardous technological processes (e.g. process controller)	175	241	157	123
Shortcomings in technological instructions related to hazardous technological processes	110	244	209	151
Non-compliance with technological instructions of hazardous technological processes (e.g. minimum number, accessories)	57	197	162	162
Non-compliance with the provisions pertaining to storage, transport, processing and production of dangerous chemicals	674	1,246	1,139	720
Failure to maintain work equipment related to hazardous technological processes	36	183	154	175
Hazards of work performed by entering into work equipment	45	60	32	25
Safety of the persons in the proximity of the area of work	150	292	291	255
Lack of rules for the provision of personal protective equipment	1,843	2,912	2,513	1,963
Lack of provision of personal protective equipment	1,356	1,376	1,066	975
Failure to use personal protective equipment	1,568	1,391	1,114	761

Tolerance for failure to use personal protective equipment	588	619	318	347
Harmfulness or construction error of personal protective equipment	262	466	390	254
Lack of CE marking of personal protective equipment	42	133	105	95
Lack or inadequate content of EC declaration of conformity of personal protective equipment	20	61	84	65
Lack or inadequate content of user information (manual) of personal protective equipment	67	156	146	95
Failure to classify or report accidents	1,057	318	353	561
Inadequate examination of accidents	1,027	548	688	1,840
Non-compliance with requirements related to the examination of serious occupational accidents	29	24	42	39
The accident classification of the inspector	30	62	67	55
Lack of prescribed labour safety specialist(s)	226	329	353	337
Failure to elect the labour safety representative	44	80	80	62
Failure to carry out regular inspection of employer	191	306	305	226
Security technology shortcomings related to employment of persons with reduced working capacity	3	1	10	4
Other	1,915	1,822	1,882	1,477
Failure of responsibility of general contractor	141	787	1,395	352
Classification of organised employment	272	183	64	52
Warning	0	0	0	285
Non-compliance with noise measurement specifications	237	515	522	394
Non-compliance with vibration measurement specifications	26	99	169	42
Non-compliance with provisions pertaining to risk assessment of noise	107	578	405	539
Non-compliance with provisions pertaining to risk assessment of vibration affecting hand-arm system or the whole body	5	56	109	86
Non-compliance with provisions pertaining to other occupational noise exposures	43	339	661	505
Non-compliance with specifications in the case of noise over limit value	38	274	366	328
Non-compliance with obligations of the employer related to audiometry, substantial exposure and hearing impairment	10	124	115	108
Non-compliance with specifications in the case of vibration over limit value affecting hand-arm system or the whole body	1	50	68	16
Non-compliance with obligations of the employer in the case of disease, health damage caused by mechanical vibration (also suspicion)	1	30	10	2
Non-compliance with rules on other mechanical vibration exposure	1	98	160	35

Non-compliance with rules on creation, use, operation of a pressurised work environment and states of air	2	6	1	3
Measures related to working in a pressurised work environment	2	1	7	2
Non-compliance with rules on personnel conditions of pressurised work environments	2	7	2	1
Non-compliance with general specifications related to the temperature of rooms, work areas, and air conditioning at the workplace	69	153	129	156
Non-compliance with specifications related to the organisation of work	97	420	302	74
Non-compliance with rules on work at a workplace classified as warm or cold (including protective drinks)	66	162	227	134
Non-compliance with ventilation rules of enclosed workplaces	88	192	153	69
Non-compliance with lighting rules of rooms	114	180	168	73
Non-compliance with specifications regarding non-ionising radiation	2	22	15	14
Non-compliance with rules related to the estimation and assessment of risks from the use of dangerous substances	386	2,098	1,528	1,325
Lack of records on safety data sheets and dangerous substances	3,707	4,194	3,441	2,663
Non-compliance with rules governing the records on data related to occupational exposure of employees	10	148	71	67
Failure to measure air pollution and/or the lack of documents regarding measurement time, level of measured air pollution	210	312	224	218
Employment in exposure over limit value	256	70	60	32
Non-compliance with rules on risk management of dangerous substances (information and training of employees)	488	1,329	1,085	1,496
Non-compliance with rules regarding special precautionary and protective measures	74	361	199	114
Non-compliance with special provisions regarding health inspections and procedures for ascertaining medical fitness	35	51	42	35
Non-compliance with the obligation of notification	72	154	152	143
Failure to carry out risk estimation and measurement of asbestos concentration	169	230	170	303
Employment of pregnant women or young people in carcinogenic exposure	2	7	5	7
Infringement of specifications on preventing or reducing exposure	652	432	338	461
Non-compliance with rules regarding alert and action plan for extraordinary situations	2	22	18	32

Employment in exposure over limit value	70	26	29	8
Non-compliance with obligations regarding registration of employees	40	142	126	229
Failure to compile a work plan or the lack of prescribed chapters (only in the case of asbestos)	17	27	26	16
Failure to maintain a record prescribed in medical records	19	31	22	68
Non-compliance with other rules related to prevention	164	323	238	154
Lack of notification and/or information to labour safety authority and/or list of employees at risk	26	114	50	36
Non-compliance with vaccination rules	24	35	43	39
Non-compliance with specific rules regarding certain medical and veterinary services	5	10	6	5
Non-compliance with specific rules regarding industrial processes, laboratories and livestock buildings	16	26	29	24
Non-compliance with rules regarding other, biological aetiological factors	68	179	219	190
Non-compliance with ergonomic obligations	128	311	245	196
Non-compliance with rules regarding work in front a monitor	62	164	100	63
Non-compliance with rules regarding manual handling	29	334	318	224
Non-compliance with rules regarding measurements to be made in the framework of risk assessment	70	239	128	45
Non-compliance with minimum health requirements of employees to use personal protective equipment at the workplace	6,993	6,081	5,457	3,559
Improperly chosen safety equipment or inadequate degree of protection	57	230	153	138
Infringement of rules regarding occupational hygiene regulations	810	1,172	786	528
Infringement of rules related to ensuring social rooms	686	857	669	450
Infringement of rules on method and hygienic conditions of water supply	69	133	121	103
Infringement of notification rules regarding occupational health service	201	204	61	16
Shortcomings in occupational health classification	91	92	42	10
Infringement of rules regarding labour safety tasks of occupational health service	2,598	3,741	2,805	1,946
Infringement of other specifications related to the occupational health service	411	536	397	332
Infringement of specifications concerning rules of procedure for ascertaining medical fitness	5,747	8,736	8,492	4,432
Lack of health declaration in the case of employment in priority positions due to	30	36	76	55

epidemiological reasons				
Infringement of specific rules regarding employability and ascertainment of medical fitness of sensitive risk groups	479	721	465	177
Infringement of specifications related to periodic and/or special and/or final inspections	546	932	804	657
Measures due to employment in illegal conditions (e.g. young people, pregnant women)	47	87	42	11
Failure to carry out preliminary procedures for ascertaining medical fitness	1,730	1,471	1,229	983
Infringement of specifications related to periodic and/or special and/or final inspections	195	391	243	196
Infringement of rules regarding organisation of first aid and establishment, equipment, marking of first aid posts	2,779	5,409	6,714	5,047
Infringement of rules on outdoor work	41	59	103	48
Infringement of rules regarding workplaces of employees with reduced working capacity	16	10	13	5
Infringement of rules regarding the protection of non-smokers	25	135	97	7
Failure to notify occupational diseases and/or cases of substantial exposure	3	8	4	7
Infringement of procedural requirements for investigating occupational diseases and/or cases of substantial exposure	1	6	7	4
Infringement of other procedural requirements for investigating occupational diseases and/or cases of substantial exposure that cannot be classified into the above categories	27	14	15	18
Infringement of other (occupational health) specifications related to the health of employees	443	402	364	230
Total number of substantive measures	**104,066**	**127,254**	**110,303**	**83,002**

Source: *NMH (Hungarian Labour Inspectorate)*

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

Community Directives transposed into the Hungarian legal system

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

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

Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community