

## Chapter 14

# Neglected by the state: the Hungarian experience of collective bargaining

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Hungary is a landlocked country in the Carpathian Basin in central Europe, bounded by Slovakia, Ukraine, Romania, Serbia, Croatia, Slovenia and Austria, with an area of 93,030 sq. km and a population of almost 9.8 million (2017). Following the state-socialist decades, in 1990 a coalition government was formed with a programme intended to transform Hungary into a market economy. During the 1990s the social partners faced privatisation, rising unemployment and austerity measures. Multinational companies (MNCs) in manufacturing have a dominant role in the country's open, export-oriented economy.

Similarly to other post-socialist countries, genuine collective bargaining in Hungary began to evolve in the early 1990s, when the economy suffered from the 'transitional recession' and the emergence of new ideological-political strands aimed at breaking with everything that bore any resemblance to the collectivist ideology of the past. While trade unions lost the majority of their members within a couple of years of economic restructuring, employers' organisations were newly established during the transition period. A pluralistic trade union structure developed, with competing unions at the workplace level, five national confederations and nine peak-level employers' organisations. The industry-level collective bargaining partners, however, have remained weak on both sides. Today Hungary has low collective bargaining coverage and a decentralised, uncoordinated bargaining system with limited impact on working conditions, basically confined to single-employer agreements in the private sector and public companies.

As Table 14.1 shows, Hungary has a dual channel workplace representation system, in which trade unions are the preferred negotiating partners. Besides the decentralised, company or institutional levels and low bargaining coverage, national tripartite institutions and informal lobbying of the government are important for both the equally organisationally weak employers and trade union confederations. Although the 2012 Labour Code was a significant step towards deregulation and flexibilisation, it has not fundamentally changed the patterns of bargaining that evolved over the previous two decades.

Table 14.1 also shows that since 2000 the coverage of collective bargaining and trade union density have declined markedly. These declines have been policy aims; successive governments have restricted the capacities of organised labour by amending the Labour Code. Although Labour Code amendments have been couched in the language of 'flexibility', their impact has been to enhance opportunities for unilateral management

Table 14.1 Principal characteristics of collective bargaining in Hungary

Key features	2000	2017
Actors entitled to collective bargaining	Trade unions plus works councils* and employers or employers' associations	Trade unions plus works councils* and employers or employers' associations
Importance of bargaining levels	Single employer is the dominant level, although national negotiations on the minimum wage are important	
Favourability principle/derogation possibilities**	In favour of employees only	By default in favour of employees only but opt-out is possible
Collective bargaining coverage (%)	Ca. 47	30
Extension mechanism (or functional equivalent)	Legally exist but rare in practice. Two levels of national minimum wage serve as a functional equivalent	
Trade union density (%)	19.7 (2001)	9.0 (2015)
Employers' association rate (%)	n.a.	21 (2013)

Notes:

\* In accordance with the Labour Code they were not bargaining partners between 2002 and 2012.

\*\* Possibilities for derogation from mandatory regulations changed fundamentally in 2012; in this respect the former favourability principle ceased to exist as a default rule.

Source: Appendix A1; Eurofound (2017).

decision-making. In addition, recent governments have been prepared to conclude agreements with public sector groups with a strong labour-market position, while excluding those whose market position is weaker, thereby effectively dividing public sector workers and trade unions.

## Industrial relations context and principal actors

As tripartite consultative institutions shape mainly the framework conditions of genuine collective bargaining, it is important to review their recent history. The National Council for the Reconciliation of Interests (Országos Érdekegyeztető Tanács, OÉT) was created before the change of regime in 1988. The first freely elected, centre-right government in 1990 acknowledged the role of the OÉT. While the subsequent socialist-liberal government maintained tripartism between 1994 and 1998, the government led by the centre-right Alliance of Young Democrats (Fiatal Demokraták Szövetsége, FIDESZ) reorganised and limited its functions. Between 2002 and 2010 socialist-liberal governments again restored the original setting of tripartite institutions. From 2006 onward, however, with the unfolding financial and economic crisis, the OÉT lost considerable influence over policymaking. In 2010 FIDESZ, in alliance with the Christian Democratic People's Party (Kereszténydemokrata Néppárt, KDNP), was elected with a two-thirds majority in Parliament. This government coalition, which is still in power following the 2018 elections, introduced major changes to basic laws and curbed democratic institutions, including national-level consultations with the social partners. In 2012 the government passed the fundamentally new Labour Code (Munka Törvénykönyve), replacing the old one.

In June 2011 the Parliament voted to replace the former tripartite council with the National Economic and Social Council (Nemzeti Gazdasági és Társadalmi Tanács, NGTT). The new body no longer includes representation of the state. Its members are the employers' and employees' organisations, NGOs, economic chambers, churches and other government-friendly associations. The NGTT has no decision-making rights, but does have the right to draft proposals that are then submitted to government. In December 2011, however, under pressure from both trade unions and employers' organisations, the government established a new permanent consultation forum, the Standing Consultative Forum for the Private (literally: 'competitive') Sector and the Government (Versenyszféra és a Kormány Állandó Konzultációs Fóruma, VKF). The VKF was set up to discuss employment issues on the initiative of the social partners. The government invited only three, of the then six, trade union confederations and three, of the then nine, employers' organisations to participate in this new body and its role and rights are more limited than those of its predecessor. In the absence of legal underpinning, the social partners' consultative power depends on the willingness of the government. Furthermore, the meetings are usually not open to the public (Kiss *et al.* 2016).

In the public sector the National Public Service Interest Reconciliation Council (Országos Közzolgálati Érdekegyeztető Tanács, OKÉT), the most important forum encompassing the whole public sector, formally remained intact, but its activity became insignificant. Since 2008 negotiations have not led to increases in the general wage scale of public sector employees. Instead, the government has engaged in selective negotiations with different public sector groups with strong bargaining power and introduced separate wage scales and other incentives for them. A notable example is the case of young doctors. Similar to their Czech and Slovakian counterparts they threatened to resign and the government had to give in (Kahancová and Szabó 2015). In recent years the government has gradually offered a 'career path' for certain professions, including the police, teachers, health care professionals and social workers, which, in practice, promises certain groups staggered wage rises. In this way the weaker groups, such as non-teaching staff in schools, elderly care nurses and public librarians, are systematically left out of wage rises. Through this policy the government has successfully divided public sector employees and their unions.

The lengthy public sector salary freeze reflects the policy of wage restraint pursued by successive governments since the economic crisis. The general public sector salary scales have not been upgraded since 2008, and until 2006 rises in the national minimum wage lagged behind productivity increases and minimum wage hikes in the adjoining countries (Galgóczy 2017). Initially, the slack labour market made it possible to maintain this policy. The foundations of this policy, abundantly available cheap labour, had disappeared by 2016. Given this switch to a tight labour market, 2016-2017 witnessed an unprecedented series of industrial actions at major MNCs, Audi, Tesco and Mercedes-Benz for example, that resulted in company level wage agreements with substantial wage increases.

## Extent of bargaining

There are two statistical sources for measuring the coverage of collective agreements. One is the Labour Force Survey (LFS). In 2015 the latest round of the survey indicated a bargaining coverage of 20.6 per cent of employees, considerably lower than in the past (22 per cent in 2009 and 36 per cent in 2001).<sup>1</sup> A second source is the registration of collective agreements, which, theoretically, has been compulsory since 1997. The Ministry of the National Economy (Nemzetgazdasági Minisztérium, NGM) currently maintains the register. Unfortunately, these data are also biased, because the bargaining parties often fail to report bargaining developments, especially the termination of agreements. In consequence, these figures are biased upward to suggest higher coverage than really exists. According to the registry, the current coverage of collective agreements is 29 per cent. Earlier figures on agreements showed a fall of 14 percentage points between 2001 and 2012: from 47 per cent to 33 per cent.

As regards the extent of bargaining, the organisational strength or weakness of the parties seems to be the main factor. While under the state-socialist system union membership was almost compulsory, overall trade union density has now fallen below 10 per cent. Official data from the abovementioned population survey are available for 2001, 2004, 2009 and 2015. While in 2001 the survey showed a unionisation rate of almost 20 per cent, the latest survey found only 9 per cent density, with substantial differences across industries and workplaces with different company sizes and ownership structures (HCSO 2016). The electricity industry (29 per cent), transport and postal services (22 per cent), education (19 per cent) and health care (18 per cent) are still trade union strongholds, but at the other extreme, hotels and catering (1 per cent), construction (2 per cent) and retail (3 per cent) are barely organised. The strategically important manufacturing sector was also slightly below average, with 8 per cent unionisation. Although linked to sectoral distribution, unions traditionally fare better in larger companies and state/municipality-owned workplaces. Since 2009, however, public sector unions have suffered a marked drop in their membership. Union density among teachers has fallen by 21 percentage points, unionisation in health care and social work has dropped by 12 percentage points and in the water, gas and steam industry by as much as 41 percentage points. The highest loss, however, 52 percentage points, has occurred in public administration and defence. This was attributable to a decree of the Minister of the Interior, who phased out the check-off system, that is, the automatic deduction of union dues by the employer. All other things being equal, the better organised an industry is, the greater the chance of strong industry unions capable of bargaining at the industry level. Good collective agreements at the industry level and/or robust union action, for example, can be found in such strongholds. Representative studies found the following densities: metal: 7.6 per cent (2010); commerce: 5 per cent (2011); banking: 20–22 per cent (2011); and education: 25 per cent (2011) (Eurofound 2010–2017).<sup>2</sup>

1. In 2015 alongside the 20.6 per cent positive answers, a quarter of the respondents said they did not know. The LFS data are somewhat biased because of the methodology, especially the high share of proxy answers.

2. Industrial density is defined as the total number of trade union members in the industry in relation to the number of employees, as demarcated by the Nomenclature statistique des Activités économiques dans la Communauté Européenne (NACE).

Given the decentralised nature of collective bargaining, it is important to discuss union presence at the workplace. According to the 2015 survey, 25 per cent of the respondent employees worked at unionised workplaces, and at larger workplaces (above 300 employees) every second employee answered positively. The variation in the presence of unions correlates fairly well with the union density figures in all dimensions. For instance, union presence was 24 per cent in manufacturing, 9 per cent in commerce, 19 per cent in banking and 52 per cent in education.

As to the employers' organisational strength, all sources mention a 40 per cent density (Appendix A1.G). This figure is suspicious because it has not changed since the 1990s and sometimes it is used to refer to the number of companies, sometimes to the number of employees. There are no data that reliably record the overall organisational density of employers' organisations; the above estimate is all that is available. Eurofound's meticulous representative studies provide much lower figures: metal, 4.3 per cent (2010); commerce, 23 per cent (2011); and education, zero because there is no employers' association (2011).<sup>3</sup> In the best-organised industry, electricity, employer organisation density was 72 per cent in 2014 (Eurofound 2010–2017). Well-functioning employers' organisations, prepared to engage in industry-level collective bargaining are rare. It should be noted that the Economic Chambers of Commerce (Magyar Kereskedelmi és Iparkamara, MKIK), membership of which is compulsory, are not eligible partners for collective bargaining. The weakness of bargaining agents is partly attributable to historical reasons, the high share of small and medium-sized enterprises (SMEs) in the economy and other new economic factors, such as the presence of precarious work. Eventually, the parties to genuine collective bargaining were established, but have remained organisationally weak since the regime-change of 1988–1990.

The Labour Code or other laws regulate most of the mechanisms that influence the coverage of collective bargaining. In this respect the extension procedure has not been the most important instrument in Hungary. Since 1992 the Labour Code has allowed the use of an extension mechanism, but it has been used only in a few industries: construction, hotels and catering, electricity and baking. Over time even these extended agreements have ceased to exist for various reasons. The fundamental hurdle has been the sheer rarity of genuine industrial agreements to which an extension mechanism might be applied. In their heyday extension mechanisms increased bargaining coverage by only 2–3 percentage points.

One channel of institutional support for bargaining has been the mediation and arbitration service. From the mid-1990s a state-run service operated, the Labour Mediation and Arbitration Service (Munkaügyi Közvetítő és Döntőbírói Szolgálat, MKDSZ), although the involvement of the service was very limited, with only a couple of cases annually. In 2017 the service was re-established.

3. The employers' organisation rate at the industry level is defined as the total number of member companies of the association in the industry in relation to the number of companies, as demarcated by NACE. For banking the study shows an extraordinarily high figure, but the umbrella organisations referred to do not function as employer organisations.

From 2004 onward over 30 Sectoral Social Dialogue Committees (Ágazati Párbeszéd Bizottság, ÁPB) were established, initially within the framework of the EU PHARE programme, to facilitate bipartite sectoral dialogue and industry-level bargaining. Their operation was limited to private and state/municipality owned companies and they were not established in sectors dominated by public sector institutions, such as health care, education or public administration, because of the absence of sectoral employers' organisations. Since 2007 ÁPBs have been governed by legislation that determines the right to participate, the so-called representativeness criteria, and to negotiate and to extend collective agreements. In practice, ÁPBs have not met the aim of increasing the number of industrial agreements. Recently, the FIDESZ government significantly reduced the financial support for ÁPBs, which has curtailed their activity somewhat.

In theory, legal mechanisms are also available to promote bargaining. Since 1992 various Labour Code provisions have been aimed at broadening the use of collective agreements and thus narrowing the scope of the mandatory regulation of the employment relationship. To this end, consecutive reforms gradually relaxed the role of the 'favourability principle' adopted during the early 1990s. Hungarian legislators considered possible derogations from the favourability principle to the detriment of employees as a sort of incentive to employers to engage in bargaining. The 2012 Labour Code made the most radical changes in this respect, as, by default, it allows any kind of deviation from the law in terms of individual employment relations, including those that act to the detriment of employees, unless the law explicitly prohibits them by enumerating such exceptional conditions at the end of each section of the law. This law was fairly contradictory, however, because it also substantially undermined company-level trade unions' operating conditions and curbed trade union rights at the workplace, such as legal protection and time-off for representatives and financial support for the unions (Nacsá and Neumann 2013). Moreover, the 2011 amendment of the strike law and other laws re-regulated essential services and made it almost impossible to go on strike effectively. Given the existence of such Janus-faced legislation it is no wonder the coverage rate has not grown (Gyulavári 2018; Appendix A1.A).

As to the duration of agreements, most are signed for an unlimited period: however, the frequent changes to the legal and economic environment force the parties to modify agreements every two to three years. Wage agreements are separated from the main body of collective agreements and are renegotiated annually, typically connected to the business year of the company and/or following the settlement of the national minimum wage for the next year.

Neither the old nor the new (2012) version of the Labour Code stipulates whether collective agreements should remain in force after their formal expiry. Nonetheless, collective agreements may remain valid in two exceptional cases: one is a transfer of undertaking, which the Code regulates basically in line with the relevant EU directive; the second is when the signatory parties themselves agree upon similar effects, such as a compulsory procedure for renegotiation parallel with the extension of the validity period. In all other circumstances, one of the signatories, and one of the signatory trade unions if more than one union jointly concluded the agreement, can terminate collective agreements without any after-effects. By default the notice period is three months. The

parties may deviate in each direction without any limitation and may agree to curb the right of termination so that trade unions can exercise it only jointly. Thus a stipulation on extension of the notice period might be a functional equivalent again, but in practice this very rarely exceeds six months.

Last but not least, concerning the extent of bargaining, the ‘erga omnes’ principle should be mentioned. Under Hungarian law a collective agreement affects all employees of the given company, or those of the companies that signed a multi-employer agreement or are affiliated to the signatory employers’ association. Trade unions often complain about ‘free riders’ and would thus welcome a limited contribution paid by non-members who also benefit from the agreements. This initiative has never become more than unionists’ wishful thinking, however, as successive governments have never engaged in serious negotiations about it.

## **Level of bargaining**

Apart from the national-level tripartite consultations, which are not collective bargaining in the sense used in this book, there are three levels of bargaining. The law distinguishes between single-employer and multi-employer agreements; the latter may be concluded jointly by at least two employers or by employers’ organisations with voluntary membership. In practice, in large companies a third level of bargaining exists in the form of establishment-level bargaining. In such cases the establishment/unit-level agreement acts as a formal supplement to the company-level agreement. This is a common approach to circumvent the rigid Hungarian regulation, which allows only one agreement per registered employer or company. By this means nation-wide companies can make use of regional pay differences in the labour market to reduce the overall wage bill.

Single employers, usually a company or a public sector institution, sign the vast majority of collective agreements. According to the registry of collective agreements, in November 2017 there were 972 single-employer and 66 multi-employer valid company agreements in the private sector, some of which covered state- or municipality-owned enterprises, and 1,630 agreements, among them a single multi-employer agreement, covering budgetary sector. These figures clearly indicate that the single-employer level is the dominant one (see Table 14.2). The majority of collective agreements are signed in large or medium-sized companies. Coverage is highest among state- and municipality-owned companies. There are practically no collective agreements in SMEs.

There are even fewer genuine sectoral/industry agreements. Although the registry includes 19 valid industrial agreements in the private sector and one in the public sector, if the data are further scrutinised only five, covering different segments of the electricity industry and road transport, have been concluded or modified since 2011. New initiatives for industrial agreements are quite rare, the most notable exception being the health-care agreement signed in 2017.

Table 14.2 Number and coverage of collective agreements in Hungary, August 2017

	Sector	Number of agreements	Number of companies/institutions	Number of employees	Total number of employees	Coverage (employees) (%)
Single-employer	Competitive sector*	972	972	443,691	2,031,700	21.8
	Budgetary sector	1,629	1,629	259,887	707,500	36.7
Multi-employer	Competitive sector	66	3,621	214,262	2,031,700	10.5
	Budgetary sector**	1	3	320	707,500	0.1
Total***		2,668		812,386	2,739,200	29.6

Notes:

\* The 'competitive sector' includes private sector and state/municipality owned enterprises.

\*\* The new sectoral health-care agreement is not included.

\*\*\* Single and multi-employer agreements' coverage should not be added up due to the overlap between the bargaining levels.

Sources: For collective bargaining: Collective agreement registry, Ministry of the National Economy. For total number of employees (at employers with at least five employees, without public works, July/2017): Hungarian Central Statistical Office (HCSO).

The underlying reason for weak industrial bargaining is the organisational weakness of the organisations at the industry level. On the trade union side, industry federations are often badly funded and staffed, and are unable to mobilise employees in entire sectors. Trade unionists, however, would very much welcome collective bargaining at the industry level, from which employees benefit, especially in SMEs and family-owned businesses where union organisation and local bargaining is hopeless. On the employers' side both the organisational structure and their attitude are problematic.

Industrial negotiation used to be impeded by the absence of employers' organisations prepared to negotiate. Although industry-level business associations exist, in most cases their role is limited to lobbying. The prevailing attitude of employers is characterised by a reluctance to join employers' associations or an unwillingness to authorise them to conclude industry agreements. Fierce competition among companies within the same industry also hinders the development of industrial bargaining. This is particularly the case in retail, in which several large companies are competitors, with the consequence that they are not interested in reaching joint agreements (Borbély 2017: 36). Previously there were attempts to create a draft industrial agreement, but it included only labour conditions and not wages. Due to the growing labour shortage in retail, the big chains have engaged in upward wage competition in attempts to attract an appropriate labour force. In the automotive industry the metalworkers union is unable to conclude an industry-level agreement covering the supplier companies because for the 'original equipment manufacturer' (OEM, 'eredeti berendezés gyártó') assembly firms' cost-cutting business model relies on tendering. In other words they deliberately drive supplier and outsourcing firms into fierce price competition.

The coverage of single-employer agreements is relatively high in the public sector. According to the Labour Force Survey coverage was 39 per cent in education, 34 per cent in health and social care, and 22 per cent in arts and entertainment in 2015. Following the centralisation of public schools, the Teachers' Trade Union (Pedagógusok Szakszervezete, PSZ) concluded an agreement with the central administration of schools, which came into force in 2014. This agreement was neither a single-employer agreement, as public school facilities are scattered across the country; nor an industrial agreement, as church-run and private schools are also present but are excluded from coverage. The recent government initiative to decentralise bargaining means that this agreement will soon be terminated. There is no hope of renewal of the agreement as unionisation at smaller units is less than 10 per cent. Another recent development is the quasi-industrial agreement in health care signed in April 2017, which was formally concluded between the industry union Democratic Union of Social and Health Sector Workers of Hungarian Employees (Magyarországi Munkavállalók Szociális és Egészségügyi Ágazatban Dolgozók Demokratikus Szakszervezete, MSZ EDDSZ) and the public administration unit National Healthcare Services Centre (Állami Egészségügyi Ellátó Központ, ÁEEK), which signed the agreement on behalf of state-run hospitals and health institutions. On the employers' side the Ministry was the real negotiating partner. The agreement substitutes the former tripartite negotiations on wage scales, the traditional method of determining scales in the public sector.

Given the lack of industry bargaining, vertical coordination between levels of negotiation is weak. The role of tripartite bodies cannot be underestimated, however, especially in setting the national minimum wage. Prior to 2010 the minimum wage was set annually after discussions between unions, employers and government. From 1990 to 1998 and from 2002 to 2010, formally, a unanimous decision of the three parties was required at the OÉT. The government later ratified this decision in the form of a decree. The OÉT also issued an annual recommendation for an average wage increase to provide 'orientation', a form of coordination, for lower level collective bargaining.

Participation in minimum wage setting was particularly important for Hungarian unions as it offered partial compensation for trade union weakness in industrial and company-level bargaining. There were several years in which the minimum wage increase was far higher than the level that unions could have bargained at companies, especially in low-wage industries. The national agreement to some extent substituted for the lack of established wage scales or 'tariffs' tied to qualifications and experience in collective agreements, as from 2007 onward two special minimum rates were set for skilled workers. As a result, one public sector union demand is to include a third minimum wage level for graduate employees. At the workplaces where there is no collective wage agreement, the compulsory minimum wage and the special minimum rate for skilled workers has primordial importance from the standpoint of workers' wage security.

## Security of bargaining

Security of bargaining refers to the factors that determine the bargaining role of the unions. In Hungary security of bargaining is a particularly a function of political will and legal regulation, which have had a crucial role in determining terms and conditions of employment. Furthermore, in both the public and the private sectors, legislation defines the rights of worker representatives. Given the crucial importance of legislation, changes in labour regulation used to be on the agenda of the national-level tripartite forum, the OÉT, until 2011: the stakeholders, including the then six national trade union confederations, could influence the content of legislation on labour regulation. In the private sector and in state/municipality owned companies the major changes in the legal environment occurred in 2012 when the new Act I of the Labour Code of 2012 was passed. The official reasoning underlying the new Act I contains the following policy-objective: the ‘implementation of flexible regulations adjusted to the needs of the local labour market’, with the objective of creating new jobs. In order to meet these objectives, the legislation comprised three elements: lowering the minimum floor of employment standards, preferring individual and collective labour contracts to mandatory regulations, and reforming collective labour law in a way that weakened the influence of trade unions at the workplace. As an overall evaluation, as early as 2012–2013 both critical labour law experts and empirical research findings declared that Act I of the Labour Code of 2012 distorted the balance of power in favour of employers, even where unions were well established (Gyulavári–Kártyás 2014; Nacsá and Neumann 2013; Kun 2016).

Regarding trade union bargaining rights, the law introduced new rules about the recognition of bargaining partners: namely, a single-employer collective agreement may be concluded by a trade union that represents at least 10 per cent of the workforce in the affected company or companies. The use of the 10 per cent membership criterion for trade unions became generally applicable in industry agreements and was extended to cover the right to participate in public sector consultation forums, such as the Reconciliation Forum of Social Services Sector (Szociális Ágazati Érdekegyeztető Fórum, SZÁÉF). The 10 per cent membership threshold replaced the earlier measure of employee votes cast for union nominees in the previous works council election.

In the context of a pluralistic union representation system, which exists especially in large companies, regulation of union cooperation is important. Act I of the Labour Code of 2012 therefore stipulates that if more than one union attains the 10 per cent threshold, all of the unions present in the company have to bargain jointly; one employer is entitled to conclude only one collective agreement. According to Act I, however, any trade union that had the right to sign the collective agreement may initiate its termination.

As to the bargaining rights of works councils, Act I of the Labour Code of 2012 reinstated the regulation that was valid under the first Orbán – FIDESZ–FKGP–MDF – coalition government between 1998 and 2002. This stipulated that in the absence of trade union(s) entitled to negotiate a single-employer agreement, the works council at the company may conclude a quasi-collective agreement with the management. Such works agreements cannot deal with wages, however, so the regulation rules out a real trade-off

between the parties. This regulation has always been strongly opposed among union leaders: however, its practical impact remained marginal and very few such works agreements were concluded.

In a major change to the previous Labour Code, Act I of the Labour Code of 2012, by default, allows collective agreements to deviate from the Labour Code not only for the employees' benefit but also to their detriment. In every Section of Act I the *ban on divergence* is indicated individually: that is, whether it is possible to diverge for the benefit of the employees only or there is absolutely no way to deviate. Where such a limitation is not indicated any direction of deviation is allowed. On certain issues, deviation is also possible through the 'agreement of the parties' to the employment relationship: namely, in the individual employment contract. Collective agreements, for example, may deviate to the benefit of the employee regarding on-call work by, for instance, extending the range of circumstances in which the employee is not obliged to be available for work. Concurrently, terms may deviate to the detriment of the employee as regards the length of the notice period, the amount and eligibility criteria for severance pay, the length of age-based additional holidays or wage supplements.

The 2012 Labour Code limited the scope of contractual deviations in state/municipality owned enterprises. Deviations from the law are not allowed regarding severance pay, notice periods, weekly mandatory working time and industrial relations issues. The latter include the number of trade union representatives who are eligible for legal protection, the amount of available time-off for union activities and the ban on the provision of financial support to trade unions by employers.

Collective agreements can provide workplaces with greater flexibility, especially in the organisation of working hours. While the default limit of the reference period for working time is four months, for example, it can be extended up to 12 months by collective agreement, and in certain cases up to 36 months since 1 January 2019. While the annual amount of overtime may not exceed 250 hours, a collective agreement may extend overtime hours to 300 hours. Through collective agreements shift and overtime bonuses also may deviate from the mandatory levels, even to the detriment of employees. As a novel element of working time flexibility the so-called 'settlement period' ('elszámolási időszak') can be applied in the absence of a working time frame. This working time arrangement is used to 'settle' the plus or minus (credit and debit) working hours accrued or not worked in the first week of the settlement period. The employer unilaterally determines both the length, up to 16 weeks, and the starting date of the settlement period. There are many similar issues on which employers are not interested in signing collective agreements. The ample possibilities for unilateral decision-making and deviations for contractual arrangements, however, undermine the declared aim of the legislation of creating incentives for employers to engage in bargaining.

In the Hungarian public sector genuine bipartite collective bargaining rights are limited to public service employees, typically education, health and social care and cultural facilities' staff, while the law prohibits bargaining for public servants and military, law-enforcement and fire-fighter personnel. The law curbs the scope of bargaining even for

public service employees; basic wages and supplements cannot be negotiated except those covered by the market revenue of the given institution. Thus the law allows bargaining only on relatively marginal issues (Berki *et al.* 2017).

In practice, the major public sector problem is the absence of authorised bargaining partners on the employers' side. At industrial level in the social-care service, for example, the 'official' participants in social dialogue on the employers' side are the federations of local governments, which have no right to conclude collective agreements. At service provider level, at which collective agreements in social services used to be struck, the employer, usually the director or manager of the budgetary unit, has the right to conclude an agreement, but is not actually in a position to make decisions on key issues that determine employment, particularly wages. As a consequence, the authority in charge of sustaining the institution, such as the local authority or the centralised office running public schools, takes the real decisions (Bokodi *et al.* 2014; Kártyás 2018).

The right to strike is regulated by Act 7 of 1989, one of the first laws passed in course of the regime change. It defined the freedom to strike, both positively and negatively, where the latter means that the employee has a right not to go on strike and therefore picketing is forbidden. Act 7 of 1989 sets out the procedural rules, peace obligation and other duties of workers/unions that call a strike. In 2010 a significant amendment of Act 7 of 1989 fundamentally changed the regulation of minimum services in public and public utility services, including public transport, communications, electricity and water supply. If the stakeholders cannot agree on minimum services, the court is authorised to make a decision on them. Labour courts are not prepared to undertake this role and therefore very few cases have been taken to court. In addition, the law stipulates a very high minimum level of essential services in postal services and public transport. This regulation has made it much more difficult to launch a strike in the public services.

While strikes have been rare in Hungary, and the abovementioned legislative changes further decreased the number of strikes, 'sectoral strike committees' (ágazati sztrájkbizottságok) are set up relatively frequently in the public sector. The reason for establishing a strike committee is not necessarily a willingness to go on strike, but the regulation on conciliation procedures before a strike forces the employer's side to engage in negotiations if a strike committee is in place. In social care, covering nurseries, homes for the elderly and social work, a strike committee was set up on 21 November 2013 by five trade union federations acting together. The strike committee called for the establishment of a regular working social dialogue forum, demanded the application of wage supplements and the salary scale introduced in health care, regardless of the legal status of the employees (under the Labour Code or the Act on Public Service Employees.) The strike committee secured the establishment of the Interest Reconciliation Forum in the Social Services Sector (Szociális Ágazati Érdekegyeztető Fórum, SZÁÉF) in December 2015. Furthermore, the strike committee continued to operate to secure a guaranteed income for workers in the industry (Borbély 2016: 38).

## Depth of bargaining

Depth of bargaining refers to the extent of involvement of local employee representatives and managers in the formulation of claims and the implementation of agreements. Little previous research has been conducted on this issue in Hungary. For the purpose of this study we conducted a group interview with five union representatives in ICT at the Telecommunication Trade Union (Távközlési Szakszervezet, TÁVSZAK). Although in each company trade unions negotiate only single-employer agreements, there are substantial differences depending on firm size and the owner's attitude to bargaining. In small companies direct communication between the leaders/negotiators and rank-and-file membership prevails during all phases of the negotiation; in larger companies the internal hierarchy of the trade unions defines the communication lines. Typically the highest body of the company union defines the negotiators' room for manoeuvre. Management attitudes also vary widely, from encouraging trade unionists through to eliminating the possibility of real bargaining. In the latter circumstances, instead of bargaining management provides one-sided information about company performance and business plan figures on wages to preclude negotiations. At the two largest companies the 35-strong Secretaries' Bodies and the Presidium with 10 members, respectively, are the highest organs of the company unions, make decisions on priorities, necessary changes in negotiation strategy and, finally, ratify the outcome of bargaining. Here local secretaries, who are shop stewards, are in charge of gathering complaints and initiatives from below and of informing the members. Between the negotiation sessions, confidential information is given to the local secretaries, but communication with members is limited. Exceptionally, when the possibility of a strike emerges the secretaries test the members' willingness to join it. Once the agreement is signed, the trade union and the management issue a joint document on the results, following careful cross-checking of the text. In this process a certain censorship by the management may emerge, which may be bridged by oral communication. At small companies, telephone conference calls among the representatives are the common form of communication during bargaining. In sum, the larger the organisation, the more difficult it is to maintain direct ties with the membership, but it is also a problem cited by trade union representatives that the members may not be interested in the details of bargaining. The distance between the negotiators and rank and file is more prominent in industry-level bargaining: in such cases, the trade union leadership, including representatives from the major company unions, make decisions prior to, during and following the bargaining process.

## Degree of control of collective agreements

This refers to the extent to which the actual terms and conditions of employment correspond to the terms and conditions originally agreed by negotiators. In Hungary the most important issue regarding the degree of control is the Labour Code. The 2012 Labour Code fundamentally changed the legal philosophy of contractual deviations from mandatory conditions and lowered mandatory minimum standards, particularly regarding the level of wage supplements. In many cases the provisions of collective agreements remained almost unchanged despite the lowered mandatory minima, due to inertia and unions successfully defending the established regulations.

There are three other issues concerning the degree of control of collective agreements: the union wage premium, the impact of collective agreements and mechanisms to enforce compliance with agreements. Given the decentralised bargaining system, the union wage premium is an appropriate means of estimating the influence of trade union presence on wages. Using multivariate regression models earlier studies found a 6–8 per cent wage premium in the business sector in the late 1990s (Neumann 2002). Following the substantial increase in the minimum wage in 2000–2001, the wage gap narrowed (Rigó 2013). A second measure is the Labour Force Survey, which includes questions on both the existence of a collective agreement at the respondent's workplace and the impact of agreements on wages and working conditions. Of course, the latter questions are asked only when there indeed is a collective agreement. Only 56 per cent of respondents replied that the agreement has an impact on wages and working conditions. In other words, almost half of the employees covered by collective agreements said that there is no controlling function of the agreement, which is a fairly severe indictment of trade union bargaining practices.

Regarding compliance with collective agreements, the effectiveness of trade unions in the workplace has long been constrained by the absence of established grievance procedures. Furthermore, the 2012 Labour Code eliminated the rights of trade unions to monitor working conditions: theoretically, works councils were put in charge of 'controlling' the lawful operations of employers. With this legislation, together with other legislation curbing the scope of action of 'labour inspectorates' ('munkaügyi felügyelőségek'), unions are almost helpless in enforcing labour law and collective agreement provisions. Moreover, in 2015 the government reorganised the Labour Inspectorate, reduced its supervisory capacity and introduced waivers on fines, especially in the case of SMEs. By these measures the government claimed to be trying to enhance competitiveness and eliminate administrative red tape for business.

According to our interviews in telecoms, enforcement of agreements also needs local representatives' careful monitoring of management actions on the shop floor. Grievances about the distribution of pay rises may happen, for example: in such cases the union leadership may request pay rolls before and after the rise. Most such conflicts are solved internally by consultations between management and union, although law suits are rarely brought. Works councils have a limited role in enforcing agreements in large companies where they, formally or informally, participate in the trade union negotiating team.

## **Scope of agreements**

The range of topics covered by collective bargaining is central to the scope of agreements. The bargaining approach of Hungarian trade unions is largely inherited from the state-socialist era. Trade unions' primary responsibility is to develop a broad framework of working conditions. In the private sector it is very rare that a collective agreement includes wage scales, the so-called 'tariffs', that are supposed to be applied in determining individual basic wages. Within this basic framework of collectively agreed wages and working conditions there are broad possibilities for management to

make unilateral decisions based on the performance of individual employees, as well as to bargain informally with individuals and groups outside trade union control (Tóth 2006).

It is a general problem that a large proportion of collective agreements simply copy and paste regulations from the Labour Code. Only a small proportion of collective agreements contain meaningful stipulations on relations between the signatories, such as working time schedules, wage supplements and terms and conditions of employment. These agreements have proved to be fairly resilient. In these cases trade unions effectively bargained to mitigate the effect of the 2008–2010 financial and economic crisis and later to ‘fend off’ the negative impact of legislative change.

In Hungary, the procedural terms of collective agreements customarily include detailed regulation of the bargaining process, such as timing, negotiation rules, ratification procedures, date of entry into force, termination and renegotiation. Other elements include coverage and time horizon and, in general, cooperation between the contracting parties. More generally, agreements may include topics related to industrial relations within the company or the industry, such as the rights and duties of employee representatives, the method of confirming the number of trade union members, the rights of trade union representatives, including their legal protection, arrangements for time-off for union work, access to an office and other infrastructure issues.

The detailed regulation of disputes during bargaining is less common, but sometimes procedures for conciliation and mediation are mentioned, including the establishment of committees in which representatives of employees and employers participate on a parity basis (*paritásos bizottságok*). In large enterprises the collective agreement may include the establishment of a permanent ‘interest reconciliation body’ with the participation of unions and works councils. Some agreements also include regulations on strikes and conciliation procedure in the ‘cooling-off’ period before an actual strike.

All collective agreements include substantive regulations setting the terms of employment, such as rules for hiring and firing, including the probation period, cases of immediate termination, duration of notice period and severance pay. Another important chapter of all collective agreements regulates conditions of employment: for instance, work schedules, working time, breaks during work, rest time, overtime, reference period for working time banks and the allocation of annual paid leave. In many industries it is important that the collective agreement contain rules of liability, and also fines, for inventory losses and damages arising from staff negligence, as well as employer’s liability in cases of breaches of duty.

Collective agreements, irrespective of their duration, contain relatively few regulations on wages. Agreements tend to include details only on the method of paying wages, the amounts of guaranteed and variable pay, such as bonuses related to working conditions, shift bonus and overtime pay. Such wage supplements are the most traditional parts of agreements and usually reflect the specific workplace. The level of wage increases, and sometimes the basic wage in a wage scale, is regulated by a separate wage agreement that in most cases is signed annually. The annual agreement includes the in-kind part of

Table 14.3 Single-employer collective agreements dealing with various issues in Hungary (all sectors), 2017

Issue	Number of collective agreements	Number of employees covered	Proportion of collective agreements* (%)	Proportion of employees covered** (%)
Bonus for additional workload due to substitution	2,454	1,116,747	84	84
Liability scheme	2,319	1,033,308	79	78
Cooperation between the contracting parties	2,310	573,042	79	43
Wage system	2,163	1,086,450	74	82
Overtime (annual hours)	1,926	903,519	66	68
Modification of collective agreement	1,908	312,621	65	23
Exemption from work at termination of employment	1,725	786,078	59	59
Notice period	1,668	594,888	57	45
Conditions of operation of trade union	1,638	645,087	56	48
Termination of collective agreement	1,629	184,593	56	14
Working time schedule	1,389	541,434	47	41
Severance pay	1,338	610,809	46	46
Trade union rights	1,290	573,042	44	43
Social policy, company welfare	1,233	403,869	42	30
Training	1,227	607,254	42	46
Longer probation period than laid down in the Labour Code	954	294,468	33	22
Collective dispute	834	893,919	29	67
Shorter probation period than laid down in the Labour Code	771	353,886	26	27
Collective redundancies	567	425,514	19	32
Strike issues	558	278,073	19	21
Legal disputes	264	792,612	9	59

Notes:

\* Total number of collective agreements: 2,925 (all sectors, competitive and budgetary sectors all together).

\*\* Total number of employees covered by collective agreements: 1,332,681.

Source: Labour Relations Information System.

compensation, too, including ‘cafeteria’ benefits, a form of flexible benefit system within which the employee can choose from a menu of possible benefits.<sup>4</sup>

There has been a dramatic decline in the number and coverage of annual wage agreements in company-level bargaining since 2001, the year the minimum wage was

4. The most frequent elements of ‘cafeteria’ benefits are to be the meal vouchers, vacation vouchers, voluntary health and pension fund contributions and local travel passes.

doubled. Wage bargaining is thus becoming more important from the point of view of distributing the wage fund and shaping wage differentiation. The other important factor that influences wage bargaining today is the growing labour shortage, which strengthens the position of employees and trade unions. It particularly affects manufacturing, retail, social services, health care and education. Labour shortages are caused not only by the emigration of the most mobile, young, skilled and educated workforce, but also inter-industrial mobility toward the better paying industries.

All in all, the contents of collective agreements are relatively narrow. Agreements tend to follow company traditions and deal primarily with issues expressly mentioned in the former or current Labour Code, usually in the form of deviations from the mandatory level. This became more apparent with the 2012 Labour Code, which allows deviations of greater scope both to the benefit and the detriment of employees (Kun 2016). Research has shown that Hungarian bargaining parties are reluctant to broaden the scope of bargaining. In many cases even the management was moderate and took into consideration good relations with the union, human resource management objectives and the company's reputation, refraining from making full use of the possibilities provided by the new legislation (Nacsá and Neumann 2013).

The compulsory registration of collective agreements provides data on the frequency and coverage of the issues that regularly appear in agreements. The logic of the registration questionnaire is tied to the explicit authorisation of the Labour Code: namely, it enumerates the issues on which the law has specified the direction and magnitude of contractual deviation. Most agreements also follow this logic, so it is worth citing the statistics on the most common issues.

## Conclusions

Following the change of regime, Hungary developed a three-tier collective bargaining system. In the course of the annual bargaining rounds, following the agreement and recommendations of the national tripartite forum, employers and/or their organisations could sign collective agreements with the respective trade unions at the industrial and company levels. The company level remains dominant in the bargaining system because of the low interest of employers in industrial bargaining and the weak bargaining power of trade unions to negotiate and conclude collective agreements at the industry level. Currently, the overall coverage of collective bargaining is 29 per cent. Despite the efforts of previous governments to strengthen industry-level collective bargaining, the number of industry agreements has not increased. Both vertical and horizontal coordination remain weak in the context of decentralised bargaining. The 2012 Labour Code curbed the rights and operating conditions of trade unions at the workplace and increased the scope of unilateral management decisions and authorised works councils, with the exception of wage issues, to conclude quasi-collective agreements in the absence of local trade unions.

Recent changes to collective bargaining in Hungary include a contraction in coverage and a weakening of coordination between the different levels of bargaining. Most

collective agreements do not include terms covering the remuneration of employees, which increasingly is subject to influence from minimum wage legislation. Legislative change has also weakened the security of bargaining.

Recent changes in the collective bargaining system occurred were mainly political in nature. The financial and economic crisis only slightly affected collective bargaining. The right-wing governments in power since 2010 have considerably degraded both the legal environment of bargaining and the institutions designed to promote bargaining. What may have a positive impact on collective bargaining is the tight labour market, which resulted in a substantial hike in the minimum wage and the average wage in 2017. Time will tell if trade unions will be able to translate the labour market shortages into wage increases and, more centrally, into a better and more sustainable system of collective bargaining, which requires organisationally strengthened trade unions at all levels of bargaining.

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All links were checked on 16 July 2018.

## Abbreviations

<b>ÁEEK</b>	Állami Egészségügyi Ellátó Központ (National Healthcare Services)
<b>ÁPB</b>	Ágazati Párbeszéd Bizottság (Sectoral Social Dialogue Committee)
<b>FIDESZ</b>	Fiatal Demokraták Szövetsége (Alliance of Young Democrats)
<b>FKGP</b>	Független Kisgazda-, Földmunkás- és Polgári Párt (Independent Smallholders, Agrarian Workers and Civic Party)
<b>KDNP</b>	Kereszténydemokrata Néppárt (Christian Democratic People's Party)
<b>KSH</b>	Központi Statisztikai Hivatal (Central Statistical Office)
<b>MDF</b>	Magyar Demokrata Fórum (Hungarian Democratic Forum)
<b>MKDSZ</b>	Munkügyi Közvetítő és Döntőbírói Szolgálat (Labour Mediation and Arbitration Service)
<b>MKIK</b>	Magyar Kereskedelmi és Iparkamara (Economic Chambers of Commerce)
<b>MSZ EDDSZ</b>	Magyarországi Munkavállalók Szociális és Egészségügyi Ágazatban Dolgozók Demokratikus Szakszervezete (Democratic Union of Social and Health Sector Workers of Hungarian Employees)
<b>NGM</b>	Nemzetgazdasági Minisztérium (Ministry of the National Economy)
<b>NGTT</b>	Nemzeti Gazdasági és Társadalmi Tanács (National Economic and Social Council)
<b>OÉT</b>	Országos Érdekegyeztető Tanács (National Council for the Reconciliation of Interests)
<b>OKÉT</b>	Országos Közszolgálati Érdekegyeztető Tanács (National Public Service Interest Reconciliation Council)
<b>PSZ</b>	Pedagógusok Szakszervezete (Teachers' Trade Union)
<b>SZÁÉF</b>	Szociális Ágazati Érdekegyeztető Fórum (Reconciliation Forum of Social Services Sector)
<b>TÁVVSZAK</b>	Távközlési Szakszervezet (Telecommunications Trade Union)
<b>VKF</b>	Versenyszféra és a Kormány Állandó Konzultációs Fóruma (Standing Consultative Forum for the Private Sector and the Government).