

## Workplace Representation

Workplace representation in Hungary is provided by both local trade unions and elected works councils with the balance between the two varying over time. Under the new labour code, unions have negotiating rights but have lost their monitoring powers and their right to be consulted. Works councils have information and consultation rights but in practice often find it difficult to influence company decisions.

Works councils, drawing heavily on the experience in Germany, were first introduced in 1992. However, they had fewer powers than in Germany and, to take account of the existing Hungarian situation, local workplace unions were left with some rights in the area of information and consultation. The right-wing government elected in 1998 swung the balance away from the unions towards the works councils. However, the socialist government elected in 2002 changed the situation again, removing the right of works councils to negotiate and increasing the consultation rights of local trade unions. The situation changed again with the labour code, which came into effect in 2012, removing rights from the unions, although in some areas the position of the works councils has also been weakened.

In practice there must be some doubt as to whether the difference has been as great as it appears. A survey published by a Hungarian researcher Béla Benyó in 2003 found that representation through works councils went hand in hand with a union presence. Only 9% of works councils were at workplaces without a union and 70% of works councils were either entirely made up of trade unionists or overwhelmingly made up of them. Although in evaluating these figures it is important to bear in mind the fact that until recently Hungarian legislation linked union recognition for bargaining to the results of works council elections. More recently the union confederation MSZOSZ noted in 2006 that "unions enjoy a far greater support at works council elections than the number of their members would suggest".

### Numbers and structure

The structure of the workplace trade union body depends on the internal rules of the union. However, the number of union representatives protected against dismissal is now laid down in the labour code (see below).

Works councils, which are entirely employee bodies, should be set up in any company or any part of a company operating independently with more than 50 employees. In companies or workplaces with between 15 and 50 employees a works representative should be elected.

The number of works council members increases with the size of the workforce as follows:

Number employed	Number of members
51-100	3
101-300	5
301-500	7
501-1,000	9
1,001-2,000	11
2,000+	13

In practice, figures from the 2009 labour force survey show that only one third of workplaces with more than 50 employees have works councils, although they are more common at larger workplaces.

The legislation does not say how often works councils should meet and most meet relatively infrequently. However, the law says that the employer must provide the works council with information on a range of issues at least twice a year, which means that there should be at least two meetings a year.

The workplace trade union representatives have a range of rights, although the new labour code has given many of them to the works council. The union continues to have the sole right to negotiate collective agreements covering wages, although works councils have more limited negotiating rights where there are no trade unions present (see above).

Until the changes introduced by the 2012 labour code, the union workplace representatives had to be consulted over major issues affecting employment, including job cuts and organisational changes, including the "transfer of undertakings". However, under the new rules, union representatives only have a right to request information and express their views. There is no longer an obligation for them to be consulted.

The union has the right to represent its members, including before the courts, to protect their interests. However, the local union representative is no longer responsible for monitoring compliance with the provisions of employment regulations as in the past. Under the terms of the new labour code, this responsibility passes to the works council.

The employer must provide the works council with information about the following issues: the basic economic situation of the employer (at least twice a year); about plans for important changes in activity and investments; about developments in wage and salary payments, the impact of these payments on the company's cash position, the characteristics of the workforce, the use of working time and working conditions. The works council can ask for documents relating to these issues and more generally about concerns relating to the economic and social interests of the employees.

The employer must also consult the works council in advance about the following issues: plans for measures that will have an impact on a large number of employees, such as restructuring, outsourcing or privatisation; the introduction of new investment, including new technology; the processing and protection of personal data on employees; the implementation of employee surveillance; health and safety issues; new methods of work organisation and the setting of performance norms; training and education plans; job assistance subsidies; rehabilitation for disabled workers; working arrangements; pay principles; measures to protect the environment; measures to support equal treatment and the coordination of work and family life.

However, while there is an obligation to consult on these issues and the labour code states that consultation should take place "with a view to reaching agreement", there is no obligation to reach agreement. The provision, which stated that action taken by the employer without consultation was invalid and could be taken to court, has been removed in the new labour code. It has also shortened the period between the start of consultation and the action being taken from 15 to seven days, although the timescale is different for redundancies and business transfers.

In the case of redundancies, the employer is obliged to give notice of the plans at least seven days before starting negotiations and not to take the decision for at least 15 days after they have started. For business transfers the employer must provide information 15 days before the transfer.

In practice, works councils have only a limited opportunity to influence company decisions. Information is often provided only at the meeting, giving the works council little opportunity to respond.

The works council has a right to decide jointly with the employer on the use of any social funds. However, the right also to decide jointly on the utilisation of buildings or equipment for social purposes (holidays, canteens etc), has been removed in the new labour code.

### Election and term of office

The choice and term of office of workplace union representatives is an internal issue for the union. The arrangements for the works council elections, on the other hand, are meticulously regulated by the law. Members must be nominated by either 10% of the employees or at least 50 employees, or by the local union organisation at the company. Members are elected in a secret ballot run by an election committee organised by the employees.

The term of office is five years. (It was three years under the previous labour code).

### Protection against dismissal

Before a trade union representative can be dismissed or moved the employer must get the approval of the higher trade union body, to which the representative is responsible. The situation is similar for the chair of the works council. He or she can only be dismissed or transferred with the consent of the works council. However, the 2012 labour code reduced the number of trade union representatives and works council members protected in this way.

Whereas in the past all elected trade union officials at the workplace were protected, under the new labour code, the union must designate specific individuals who will be protected and the number varies with the size of the workforce, as follows (see table). Early indications suggest that this change will have a substantial impact on the number of trade union representatives at company level.

Number of employees	Number of union officials protected
Fewer than 500	2
500 to 1,000	3
1,000 to 2,000	4
2,000 to 4,000	5
More than 4,000	6

In the case of the works council, protection against dismissal and transfer applied to the whole works council. It now only applies to the chair

### Time off and other resources

Under the new labour code the designated union representatives at the workplace are entitled to one hour per month release from normal duties for every two members at the workplace. (This is a reduction of a quarter, compared with the situation in the past, where it was two hours a month for every three members). In the past, the union could be compensated in cash, if these hours were not taken up, although only up to a maximum of half the available time, and this was a significant source of union income. However, under the new labour code, this possibility has been abolished. The union should also be given access to rooms on the premises for trade union activities.

Works council members are to be released from their normal duties for 10% of their monthly working time (15% for the chair of the works council. Chairs in companies employing more than 1,000 are completely released from their normal duties.) The employer should also pay for the necessary costs of the works council on a jointly agreed basis.

### Representation at group level

A central works council at the headquarters of a company can be set up if there are several works councils covering the same employer. In the past, this only applied if the different works councils were in the same legally registered company. However, under the new labour code a central works council can be set up at groups of companies. In addition, there had already been some cases where a works council at group level had been set up voluntarily.

Links between local union representatives depend on the union.

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