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THE EMPTY SHELL OF SOCIAL DIALOGUE
A HUNGARIAN CASE STUDY

DOI:

ABSTRACT

The European Social Model involves among other things: fundamental social rights, social protection and social dialogue. The neoliberal path chosen by Europe combined with the financial crisis led to the introduction of austerity measures that endanger key elements of that model. Europe and its Member States have common and national mechanisms to ensure distributive justice, citizens' participation and the continuity of the European Social Model even when it is threatened by international financial conditions or the political choices of its rulers. As a part of the ETHOS Struggles for Justice – Impact of Social and EU Charters in times of crisis project², our research aims to answer two leading questions: to what extent is the national social dialogue a democratic instrument that uses horizontal and democratic processes and whether it is a powerful instrument for the preservation of the European Social Model?

Our paper reports on the actual status and functioning of social dialogue as a mechanism to produce a more effective enjoyment of labour rights between the different political and social actors in Hungary. We interviewed key actors of trade unions and confederations, lead character of an employers' association, and analysed the relevant international and national legal framework concerning social dialogue. The case studies focus on two special – strongly polarised and politicised – areas: healthcare and public education. Interviews conducted with sectoral representatives aim to find out the different perceptions about the practices of social dialogue and social partners' views on the role of the state in social dialogue.

Keywords: social dialogue, politicization, unions, public health care, public education system.

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² ETHOS Project is a Horizon2020 project developed to create a new integrative perspective on justice and fairness. In ETHOS six Research Institutions cooperate: Utrecht University (UU, Utrecht, The Netherlands, coordinator), Europäisches Trainings und Forschungszentrum für Menschenrechte und Demokratie (ETC, Graz, Austria), Közép-Európai Egyetem (CEU, Budapest, Hungary), Centro de Estudos Sociais (CES, Coimbra, Portugal), Boğaziçi University (BU, Istanbul, Turkey) and the University of Bristol (UoB, Bristol, United Kingdom). This article is solely based on the Hungarian research part.

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INTRODUCTION, METHODOLOGY

This article is part of a larger European research project *ETHOS, Towards a European Theory of Justice and Fairness*, which aims to discuss justice and equity in various European societies, including Hungary. Within this broad research area, the investigation this paper is linked to examined the influence of social rights and human rights charters following the world economic crisis, during the post-crisis restrictive economic measures. Among other things, we have focused on and examined the institutions and mechanisms connected to labour legislation, such as the alternative dispute resolution (ADR) mechanisms and the institutions and procedures of social dialogue. The present article focuses on the latter issue, and defines social dialogue (SD) in a very broad, permissive sense, as any type of exchange of opinions, or dialogue taking place between the government, the employer (employers' associations) and the representatives of the employees about actual socio-political and economic issues. Our presumption was that such a dialogue will positively influence the national policy-making processes. It was also presumed that the existence of such mechanisms can be considered a clear sign of the continuity of the European Social Model's (ESM) achievements. As an extension of the main research question indicated above, we had several sub-questions we aimed to answer. We wanted to explore and understand the extent to which social dialogue as a democratic institution fulfils its role in Hungary, and whether and how it influences the various decision-making processes. As a follow-up to the previous questions, we wanted to explore to what extent Hungarian social dialogue is able to contribute to the sustainability of the ESM.

Our research methods included desk research of the existing labour legislation and legal environment of the mechanisms and institutions of social dialogue in Hungary. We studied not only legal regulations, but also meeting minutes of key institutions of the national-level social dialogue. This provided us with a picture about the legal provisions and limitations, about the legal framework defining the mechanisms and institutional operations. However, our research did not stop here. We conducted several semi-structured interviews with major stakeholders in order to understand the everyday practices and interpretations of the main actors of SD in Hungary. We interviewed union representatives, leaders of major confederations in Hungary, representatives of employers' organizations, leading figures of grassroots social movements active in the area of education, and unionists in the health care sector³. While the legal analysis was more or less feasible, interviews with major stakeholders were not always possible. Given the nature of the Hungarian state and its increasingly authoritarian tendencies, those in charge of representing the government in the national-level forums of social dialogue did not feel the urge to talk to us researchers. Despite repeated written requests and telephone calls, such

³ Altogether we have conducted 10 semi-structured interviews, and were involved in further informal discussions with people involved at some level of the SD in Hungary.

interviews could not take place. The missing government-side of the triangle is to some extent “reconstructed” through the narratives of formal partners in social dialogue: the union and confederation representatives and by employers’ association representatives. While we provided full anonymity to our interviewees, some expressed anxiety and fear about voicing critical opinions about governmental practices, in this case related to social dialogue. In some cases interviewees would not allow recording, others succumbed into self-censorship, while in other instances they “stood up” for their opinion and spelled out their dissatisfaction, disappointment or disillusionment with the direction social dialogue has taken in Hungary in the last decade or so. These highly critical opinions often linked the “problem” or dysfunctionality of SD to the larger socio-political context and the deteriorating state of democracy in Hungary.

THE ROLE OF SOCIAL DIALOGUE

The right to participate in decisions affecting one’s life is a basic value in a democratic society. This principle should be present in all areas of civil society, encompassing political and economic spheres, including workplaces. Robert Dahl argues that people involved in certain kinds of human association possess a right, an inalienable right to govern themselves in democratic process, and if democratic decision-making is required at the state level, then it is also justifiable at the workplace level (Dahl 1985). Involvement in decision making which affects one’s life is an essential part of human dignity (Sinzheimer–Shumway 1920). The ‘voice of workers’ has traditionally been represented by trade unions through collective bargaining (Bogg–Novitz 2012).

Historically, industrial democracy became an effective force within the workers’ movement primary as an idea of representative democracy (Müller-Jentsch 1995). The principle of industrial democracy implies replacement of unilateral regulations with joint decisions on matters concerning workplaces or employment conditions. Thus, it is a socio-economic philosophy which proposes that citizenship rights in employment allow the workforce to partially or completely participate in running an industrial or commercial organization.

The system of workers’ participation in company-level decision-making shows considerable differences across Europe (Arrigo–Casale 2005). Neither the institutional structure nor the intensity of participation is consistent, due to differences in the basic philosophy of industrial relations between the Member States of the European Union. The most significant differences could probably be detected between the German, the Scandinavian and the Anglo-Saxon models. In the Anglo-Saxon system institutionalised workers’ participation shows little compatibility with the traditional pattern of industrial relations, whereas in Germany and in the Scandinavian countries industrial relations are cooperation-based. But even where institutionalised workers’ participation exists, it often remains on the level of mere information and consultation. The different culture of industrial relations results from the different political, cultural and economic developments of the Member States. In this heterogeneous situation, it would be largely unrealistic to shape the structure of workers’ participation identically throughout the EU: the most that could be achieved is to approximate the systems in a functional sense (Weiss 1996).

Social dialogue in the European social model

The overarching objective of Social Europe is to create a more equal society: ending poverty and poverty wages, while guaranteeing fundamental human rights, essential services and an income that enables every individual to live in dignity. The Commission's 1994 White Paper on social policy (European Commission 1994) described a 'European social model' in terms of values that include democracy and individual rights, free collective bargaining, the market economy, equal opportunities for all, social protection and solidarity. The model is based on the conviction that economic progress and social progress are inseparable. A defining feature of the European social model, when contrasted with that of the US, is the important role attributed to organisations of workers and employers in Europe.

There has been much academic and political debate whether it is possible to define a single European social model, or whether it would be more accurate to divide it into five different welfare state models, offering different approaches to the reduction of income inequality and poverty and to protection against uninsurable labour market risk (Bohle–Greskovits 2012). It is well established in the literature that national social policies in the Member States diverge in levels of generosity of social transfers and services, in their normative aspirations and in their institutional structures (Hall–Soskice 2001) (Esping-Andersen 1990) (Farkas 2016). Even though national policies are quite different, it is agreed that well-functioning industrial relations at European, national, cross-industry, sectoral and company level, are crucial to the success and stability of the European social model.

Social dialogue enables the social partners (representatives of management and labour) to contribute actively to designing social and employment policy, thus this institution is a fundamental component of the European social model. Such dialogue can promote agreements and policy measures that strike a balance between the interests of workers and employers. Under Article 151 TFEU, the promotion of dialogue between management and labour is recognised as a common objective of the EU and the Member States. The aim of social dialogue is to improve European governance through the involvement of the social partners in decision-making and implementation. The EU Charter enshrines the fundamental rights of association, information and consultation, and collective bargaining and action, anchors the role of the social partners in EU social policy, and ascribes legitimacy to collective bargaining and collective action, and to information and consultation at the level of the enterprise. European labour law has also established a general framework for improving information and consultation rights in the Member States, representing a crucial dimension of the European social model⁴ and in transnational companies with European Works Councils.⁵

Arguably, the European Social Model has been declining in the past two decades (F. Scharpf 2009, F. W. Scharpf 2002, Sapir 2006, Ferrera–Hemerijck–Rhodes 2007). The existing constitutional asymmetry between

4 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 – Joint declaration of the European Parliament, the Council and the Commission on employee representation OJ L 80., 2002.3.23., 29–34.

5 Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 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 (Recast) OJ L 122 16.5.2009, p. 28.

policies designed to promote market efficiency and social protection is striking (Schiek 2017). In the EU system of economic governance, labour market and social policy reforms remain in the domain of the Member States. European social policy making is hindered by these different national models, making it increasingly difficult to achieve the commonly agreed goals of social integration. Over the course of the recent economic crisis social dialogue came under increased pressure and at the same time was weakened by its decentralisation, a decline in bargaining coverage and state intervention in the area of wage policy (Kilpatrick–de Witte 2014). Without consensus, governments and public authorities more frequently took unilateral decisions without social partner support. Against this background in November 2017, the Parliament, the Commission and the Council proclaimed the European Pillar of Social Rights. It provides, inter alia, for respect for the autonomy and the right to collective action of social partners and recognises social partners' right to be involved in designing and implementing employment and social policies, including by means of collective agreements (European Commission 2016). Despite of the recurring challenges of the globalised economy, the EU's social legislation provides an important safety net of minimum standards, preventing a downward spiral of social dumping (Vandenbroucke–Barnard–De Baere 2017).

SOCIAL DIALOGUE IN HUNGARY

The Hungarian labour market could be characterised by a moderate unemployment rate, a relatively low labour market participation rate and highly flexible labour market institutions (Köllő 2011). Union coverage has been radically declining and the unions have little power (Gyulavári–Kártyás 2016). Employment protection is lower than the EU average, while the adjustment of wages is also relatively easy (Eurofund 2019). According to some research, the former Labour Code of Hungary was already one of the most liberal in Europe, but after the introduction of the new Labour Code in 2012 it got even more flexible (Kun 2014).

The 2012 Labour Code pursued a new regulatory concept, and now allows collective agreements to depart from the provisions of the law without restriction, that is, even to the employee's detriment. The new concept allows social partners to have much more influence on shaping working conditions through agreements. Against this background it would have been necessary to reinforce the positions of the bargaining partners, especially that of trade unions. However, the new Labour Code significantly curtailed trade union rights at the workplace; and trade unions which had not been overly strong in the past either are in an increasingly difficult position when it comes to protecting employees' interests (Kollonay Lehoczky 2015).

National economic and social council

After the abolition of the tripartite National Interest Reconciliation Forum in 2010 a two-tier social dialogue model has emerged in Hungary. On the one hand there is an official body which involves representatives from many different areas of the society, but which operates without any government agents. On the other hand, there is an informal council established by the government by a civil law contract, to which only selected organisations belong. The common denominator for these fora is that neither of them meet the requirements

for national level tripartite social dialogue set forth by ILO Convention No 144.⁶ In this section we analyse the operation of these interest reconciliation bodies.

The National Economic and Social Council (NESC) is a consultative, drafting and advisory body independent from Parliament and the Government, established to discuss comprehensive matters affecting the development of the economy and society, and national strategies across government cycles, and to promote the development and implementation of harmonious and balanced economic development and related social models.⁷ NESC is a six-sided body, operating with the participation of advocacy groups and organizations of employers and employees, national business chambers, NGOs active in the field of national policy, traditional churches,⁸ Hungarian representatives of academia both in and outside Hungary, and Hungarian representatives of the arts both in and outside Hungary.⁹ NESC rights are narrowly formed, which reduces its importance as a consultative forum striving for national consensus in important economic and social questions. NESC is able to engage in consultation and accordingly give opinions, adopt positions, make proposals, adopt recommendations and take decisions on its own initiative.

Albeit envisaged as a diverse consultative forum, NESC lacks the necessary elements to qualify as a national tripartite forum for social dialogue. First, it is not tripartite and due to its composition employers and employees always hold a minority position. Second the government is not represented on the council. Although of NESC's agenda is set by government agents, ministers may attend its meetings in an advisory capacity. The lack of formal presence of the government signifies the weak position of the council.

Due to the diversity of the represented social groups, incapacity to achieve consensus is embedded in NESC's composition. A leader of a government-critical confederation explained that NESC is too broad a platform with representatives of various organizations, including the huge, pro-government oriented body of artists, and religious leaders. Even the representatives of NGOs are selected from civil organizations who have received indirect support from the government. This composition is also detrimental to the quality of debates, as arguably there is no real contestation of ideas and arguments at the meetings. Although it was intended that it would be the forum which monitors the socio-economic development of Hungary, elaborates proposals for Parliament and the Government for the solution of comprehensive macro-economic and social problems and discusses government strategies and schemes in terms of employment policy and redistribution priorities, NESC has had few achievements. In addition to this, according to the contributions recorded during the meetings, representatives do not always have the necessary professional knowledge to substantially contribute to the discussions.¹⁰

6 The Convention on Tripartite Consultation (International Labour Standards), 1976 (No. 144). The Conventions provides for that Contracting Parties undertake the duty to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation between representatives of the government, of employers and of workers, while employers and workers are represented on an equal footing on any bodies through which consultations are undertaken. Hungary ratified Convention C-144 in 1994.

7 Act No XCIII of 2011.

8 As specified by Act No CCVI of 2011.

9 Added by Act No CXXXIII of 2013.

10 For example in 2015 the churches side expressed its surprise that the minimum wage does not meet the minimum subsistence level, which had been the case since the introduction of this measure in 1989.

The council's impact on legislation and policy making is very debatable. According to the available information, between 2010 and 2017 the council discussed 36 proposals, adopted two joint opinions, and established a special committee, but it has not reached any agreements, which could be the most influential tool in the pool of its otherwise rather poor competencies.¹¹ When we take a closer look at the achievements of the area where consensus was reached or an impact on legislation was made, this picture is even more unsatisfactory. The first joint opinion was adopted on the importance of maintaining a close relationship with the minority Hungarians living in Zakarpattya region (Ukraine), while the second one concerned the importance of a healthy lifestyle. The legislative measures adopted with regards to negotiations in NESC dealt with the allocation of EU funds for regional development programs.¹² The special committee set up in 2014 intended to launch an investigation about homelessness after the presentation of the deputy state secretary of the Ministry of Human Capacities regarding regulatory changes in this area. However, other than two experts in the field being invited to hold presentations about homelessness at a plenary session of NESC, there are no records of any further impact of this committee.¹³ In other cases like social policy or economic reforms, recommendations made by the various sides of the council have been overlooked by the government.

The government does not consult the NESC about substantial topics, such as the minimum wage, social dialogue about which is a highly controversial issue in Hungary. The predecessor of NESC, the National Tripartite Reconciliation Body, used to have codetermination rights concerning this issue, which meant that the government was unable to set a minimum wage without the consent of social partners.¹⁴ However consultation about the minimum wage, taxes and social contributions related to the field of employment now take place at a different forum, and the government only informs NESC about the outcome of these negotiations. This practice seriously undermines the significance of NESC as a genuine forum for social dialogue.

It is not only the debated topics that makes NESC a poor influencer, but also the lack of preparation for the meetings. Briefs often come right before the meetings, not allowing representatives to prepare for the debates. It was also mentioned during the interviews that preparatory documents are shallow and do not issues on their merits. For instance, for the meeting about the education system and its major problems or

11 What added further challenge to the research is that although the Minister has to prepare a report on the output of NESC with special regards to its influence on the work of the Government by 31 March every year, these reports are not always available, and there are no available data for years 2013 and 2016.

12 Government decision No 1600/2012. (XII. 17.) and Government decree No 218/2009. (X. 6.) on enhancing the role of local governments.

13 For further details on the presentations see: Beszámoló az Autonóm Szakszervezetek Szövetségének 8. Kongresszus óta végzett érdekvédelmi tevékenységéről, 2014.

14 Incorporated in various laws, the government had to seek agreement from the social partners represented in *Országos Érdekegyeztető Tanács* (OÉT) in areas listed exhaustively in the Labour Code of 1992 before issuing governmental decrees. Such areas were among others: the national, statutory minimum wage, the maximum daily working hours and the number of public days off; the specific rules and measures on collective redundancies due to economic reasons, any other specific derogations from the general statutory rules on employment. Additionally, the Statute of OÉT provided for the co-determination right of social partners in other areas as well, like the rules of procedure and operation of the Labour Mediation and Arbitration Service. Co-determination right on minimum wage was abolished in 2009 by Act LXXIII of 2009 following the decision of the Constitutional Court (ABH 124/2008. (X. 14.) Constitutional Court decision). The Constitutional Court found co-determination right of OÉT unconstitutional as OÉT was not listed by the Constitution as a legislative body, yet its consensus was needed to issue a government decree.

inadequacies the government provided a two-page brief, while the same issues had been very thoroughly addressed and analysed elsewhere by some professionals associated with platforms like the Civil Public Education Platform, active in education policy initiatives in recent years.

Against this background it did not come as a surprise that interviewees perceived NESC as a poorly operating forum. One of the harshest comments from the interviews was made by a representative of the employers' side about the functioning, or rather the lack of a functioning national forum for social dialogue: *„the government states, or rather declares its intentions, others state their opinion, and then everyone goes home. Without any effect whatsoever. So, I would say its prestige is zero, no one ever takes it seriously. The government has established it to be able to say that there is national level social dialogue in Hungary”.*

Based on the meeting minutes and on the opinions of interviewed representatives, two trends could be observed in the operation of NESC: one is that the meetings have become less frequent, and the other is that subject matters have become vague and often politicised. How representatives perceive the operation and effectiveness of NESC is very much based on their political position. Pro-government trade unions and employers' representatives often find the national level social dialogue to be functional and „normal”, „business as usual” with agendas and background materials based on which discussions are being held. These government-friendly organizations help to legitimize and sustain the „feel” of a functional democratic system of social dialogue, while the government-critical confederations are left with a lot of frustration and feelings of helplessness, with occasional individual „attacks” against the meaningless procedures, trying to resist or counter the existing procedures with critical opinions, and professional background reports. As one of the interviewees stated *„When I was chairing one of these sessions [in NESC], as I happened to be the head in rotation, I was openly critical of the position of one of the pro-government organizations [about the public education debate]... The state secretary, who happened to be present, quite cynically dismissed my points by saying that well, we know NN is getting his salary to say such things, so it's fine, we understand...”*

Interestingly, the government occasionally acts exactly according to the NESC recommendations but with significant delay, and it does not acknowledge any connection between the earlier recommendations and the newly introduced policies. This of course creates frustration in the confederations and trade unions and this course of action calls for explanation. Union representatives mostly agree that the government does not act as per recommendations even if they are sensible because of its highly authoritarian and undemocratic character. It does not want to listen and take advice on board because this is not the way it functions. *„This government is not used to listening, everything is decided from above, from one person. They are not used to being told what to do.”* As the interviewee suggests, it is equally a matter of political prestige, also the consideration not to allow government-critical confederations (3 out of the 6 existing ones) to have their way, or for that matter any trade union or confederation to „dictate terms” and „to say what to do”. In this respect, according to the representative of a government-critical confederation, the more government-inclined confederations are not much better off either. *„They just try to pretend that they are in the good books of the government, but I don't think they have any real influence”.*

The permanent consultation forum

The Permanent Consultation Forum (PCF) was established by a civil law contract between the government and the invited trade union federations and employers' association. PCF is attended by the Prime Minister in person together with the State Secretary responsible for Employment Policy. The establishment of PCF was strongly debated as membership was only offered to selected trade unions and employer organizations, and some claimed the selection was arbitrary since no qualification criteria were communicated by the government (Krén 2013). In 2012 the government invited three out of the six trade union confederations¹⁵ and three out of the nine employer organizations¹⁶ to the forum to develop joint positions regarding employment, industrial development and its related socio-economic and financial aspects, including the policy on wage increments in the private sector. The reduced number of representatives seems to be practical, according to a representative of the major organization for employers. In his/her opinion, the principle of representativity was followed on both sides, and the selected major organizations stand for the bulk of employers and employees. However, there seem to be serious concerns regarding the functioning of this forum in terms of its efficiency and whether it represents a valuable social dialogue at all.

Even though the government is represented at its meetings, PCF does not operate as a genuine tripartite consultation forum for two reasons. First, since the forum was established by a civil law contract it lacks the necessary legal basis. Without legal regulations, the government's obligations and the social partners' rights remain unclear and – as could be seen through the example of fringe benefits – assumed rights are not enforceable. Therefore, the government is not obliged to consider proposals put forward by employers' organisations or trade unions. Second, PCF works in a completely non-transparent manner: the agenda and minutes are not available, and decisions are communicated via press conferences, even though its operational cost is covered by the government.

Based on available data PCF has a leading role in consulting the government about statutory minimum wages. Usually negotiations are in late November and their results are communicated to the public and NESC afterwards. For example in November 2016 the government and PCF signed an agreement to settle minimum wages for the following three years.¹⁷ Apart from that PCF does not have a well-defined work-program or a yearly plan; it usually meets on the basis of actual issues prompted by a question or a change in the world of labour or in society in general.

Based on the interviews it is apparent that social partners assume that the government uses PCF as a facade to pretend there is social dialogue and to give the impression of maintaining a democratically functioning tripartite system. Through this forum, the government seeks to provide legitimacy to its decisions – so believes

15 Democratic Confederations of Free Trade Unions (LIGA; *Független Szakszervezetek Demokratikus Ligája*), National Confederation of Hungarian Trade Unions (MSZOSZ; *Magyar Szakszervezetek Országos Szövetsége*), National Confederation of Workers' Councils (MOSZ; *Munkástanácsok Országos Szövetsége*).

16 Confederation of Hungarian Employers and Industrialists (MGYOSZ; *Munkaadók és Gyáriparosok Országos szövetsége*), National Federation of Consumer Co-operative Societies and Trade Associations (ÁFEOSZ-KÉSZ; *Általános Fogyasztási Szövetkezetek és Kereskedelmi Társaságok Országos Szövetsége*), National Association of Entrepreneurs and Employers (VOSZ; *Vállalkozók és Munkáltatók Országos Szövetsége*).

17 In press this agreement is referred to as "six-year wage agreement", however from the text it is difficult to assume whether an agreement was reached for the post-2019 era.

a representative of an employers' organization. This interviewee provided a very simple yet concrete example to illustrate the ill-functioning of the system. The government has recently decided to amend the regulation on fringe benefits, withdrawing most of them from the system. A day before the PCF ad hoc meeting a brief, one-page working document was provided to all the participants of the meeting. „During the meeting the government representative used indicative mode, without taking on board any of our opinions, [even though] both the union and the employer representatives thought that this might not be the best idea [to eliminate fringe benefits from the system]”. In July 2018, trade union members of PCF intended to organise nation-wide demonstrations if the government refused negotiations about fringe benefits and related tax exemptions.¹⁸ Later on a social debate has evolved in the government-critical, democratic media around the issue. „No substantial preparations were made for this decision. They did not send the material to us in time to enable us to prepare and respond professionally. We would have opened a professional debate about it within our organization, and if we had had a chance to call for a board meeting and to deliberate we would have come up with a written opinion. None of this happened”. Despite the resistance and difference of opinions the government put forward the agenda without consulting any of the interest reconciliation forums, and the parliament voted on the proposal.

Likewise, issues quickly got politicized at PCG too, and debates proceed without professional considerations or arguments pro- and contra. The same interviewee as above spoke about the complexity of the extra-pay benefits, how it would have required special expertise and exchange of professional opinions, that is both within the board of employers' association and on the national tripartite forum. He/she thinks that this would have been a typically technical- professional question without any political connotations, yet the conversation did not focus on the possible impact and the professional background studies. “This is somehow a Hungarian disease that we quickly see things in black and white, in the framework of who is with me and who is against me, instead of taking the professional side of the question irrespective of which political block or view one belongs to”, by which he obviously refers to the deeply divided and polarized nature of the Hungarian society as such, and also to the fact that even so-called professional forums fall prey to such reflexes running deep in the society. The same decision-taking mechanism takes place about the transformation of the small business sector, following a relevant EU directive in this matter.

Conclusions

The change of legislation and thus the character of social dialogue also meant that positions represented by participants of such meetings stopped becoming binding for the government, opinions of the members of the tripartite system are being systematically ignored and consultations have no political, economic or social consequences. Formally, all the institutions of national level social dialogue are in place, occasional meetings are being held whenever the government finds it necessary to publicly legitimize its steps or decisions, and some of the concrete issues are being put on the table during such forums- but the mechanism and negotiating processes of such issues are seriously problematic. This practice constitutes procedural violations of democratic rules, not to mention the lack of any social, political or economic impact or any direct consequence of these national-level forum meetings.

¹⁸ <http://www.liganet.hu/news/9858/nyilatkozat.pdf>

In addition, it is worth noting that a clear political divide exists in interpreting the functioning and efficiency of the national level social dialogue in Hungary. Government-critical confederations and unions represented by the former agree that the social dialogue in Hungary has become an empty shell with formal procedures more or less in place, just to serve the current government, which uses it as a rubber stamp for its seemingly democratic decision-making processes. Confederations loyal to the government seem to challenge this opinion, or rather express their satisfaction with the forum and its mechanism, giving credit both to government and to other „constructive” participants in achieving positive outcomes. The employer organizations seem to be of mixed opinion- the organization we managed to talk to was very critical of the current procedures, as is obvious from the above interview quotes.

The dysfunctional character of the social dialogue on the national level has, not surprisingly, negative consequences on the lower levels of social dialogue too. The consequences are manifold, affecting the general support and smooth functioning of the unions at the local level. By stigmatizing the representatives of alternative opinions and turning them into political scapegoats, a general sense of fear and insecurity is created among existing union members and supporters. These processes lead to further deterioration of union support by its members, and serves as a major obstacle to further unionization. Another symptom that Hungarian unionism has been struggling with since 1989 is related to the internal struggles and tensions between various confederations and the related unions, leading to a general fragmentation of the entire union system (Neumann 2018). In the fight for union members, some of the confederations close to the political power-center have “poached” members on a large scale, going after entire unions with full membership (Neumann 2018, 330). Since the return of the Orbán government to power in 2010, it has actively contributed to this fragmentation, further enhancing and stimulating the weakening process of the unions (Neumann 2018, 331). Furthermore, the emptied out and thus meaningless national level mechanisms of SD create disillusionment and lack of interest among the representatives and likewise among those being represented.

Returning to the polarized scene of SD on the national level, it is apparent that two opposing tendencies or ambitions are at work, namely the governmental ambition to politicise matters and not to open professional debates as these are not the aspects which matter vs the union’s ambition (in most cases) to “bring down” decision-making from the political level and discuss those issues in a professional/ technical manner. However, the latter approach does not match the government’s ambitions, which aim at political alienation and exclusion/ discrediting of representatives of alternative views without engaging in any professional discussion. On the contrary, politically independent unions and confederations while sensing their meagre chances of winning a political battle, *technicalize* the arising issues, that is, articulate them in technical-professional terms. Needless to say, the government has little in taking part in such debates, even if in some instances it actually adopts the SD partners’ recommendations later, without acknowledging or giving credit to it.

SECTORAL AND WORKPLACE LEVEL SOCIAL DIALOGUE

It has been pointed out by various authors that CEE industrial relations have become severely decentralized in the last two decades or so (Glassner 2013, Meardi 2002, Varga 2013 quoted by Adascalitei–Guga 2015). The same is the case with social dialogue, since the state no longer supports unionization or takes the unions and confederations (where they exist) seriously (Adascalitei–Guga, 2015). Instead, most union activities and their mobilizing capacities get directed to the local level, which means a local union organization, a plant or workplace level unit of workers' self-organization. This has been the case in Romania in the automobile sector, where plant-level union organizations turned out to be very successful in self-representation and achieving labour demands despite the increasingly hostile economic, legal and political environment. (Adascalitei–Guga 2015) Similarly, in Hungary, local level unions in some cases turned out to be successful recently by being able to organize strikes or reaching near-strike situations as a result of which the plant management was forced to yield to their demands (Audi Hungária and Daimler–MB Kecskemét are good examples for this); in other sectors local/ union level initiatives did not take place at all or remained highly unsuccessful. In the sections below, we will analyse two public sectors- education and health care – where, even if mobilization and some sectoral level efforts did take place, due to their market position/ low direct impact on the national and global markets, the bargaining power of these initiatives was not sufficient to convince the state to change its policies.

As ethnographic studies of the local level enactments of SD are rare, and instead the literature usually applies a macro-perspective combined with an historic overview of TU traditions, we have decided to place two unsuccessful local/ sectoral efforts of the recent past under scrutiny, where different local and sectoral unions interacted and strove to engage in a meaningful SD with the state. Both these major attempts, which managed to mobilize not only the employees of the sector but the average citizens too (affected as 'clients' of the education and health care as major service sectors), were destined to failure due to structural factors presented in this text.

Sectoral level social dialogue does not have a long history in Hungary. One of the biggest obstacles is the weak institutional framework and the inadequate organization of social partners at this level. Even though Hungary's accession to the European Union triggered some changes, this level of social dialogue is rather inactive. The Sectoral Dialogue Council is a trilateral body composed of representatives of the employees' and employers' side of the sectoral dialogue committees and the minister. Its task is to provide an institutional framework for the coordination activities required for the operation of the sectoral social dialogue committees. The main task of the sectoral social dialogue committees is to promote balanced development of the sector, to implement an autonomous social dialogue at sectoral level, aiming at creating better working conditions, retaining jobs and promoting the legality of the labour market processes. Currently there are 21 sectoral social dialogue committees; however, there are only three sectoral collective agreements in force.¹⁹

OKÉT is the high-level tripartite social dialogue forum for the whole public sector. It represents all of the employees who are engaged in the public sector, including public servants, civil servants, policemen, defence

¹⁹ Social partners of sectoral dialogue committees are entitled to conclude collective agreement, and may request its extension via an administrative decision of the Minister of National Economy. These extended collective agreements are in the energy, the construction, and the catering, hotel and tourism sectors.

force officers, members of the armed forces etc. This national tripartite forum was established in December 2002, originally to deal with wage (salary) and employment policies and labour law related issues of the public sector in general, but today it serves the purposes of disseminating information rather than consultation. Besides the OKÉT, there are some specific interest reconciliation forums in various branches of the public sector, such as the Labour Council for Public Service Employees (KOMT) and the Public Service Interest Reconciliation Forum (KÉF) for public officials. It holds consultations, delivers opinions, makes proposals, and discusses national strategies within its field of operation. The influence of the OKÉT is considered to be limited (for example, it has exercised no influence or voice over the series of important laws reshaping public administration and public services).

The most important forum for social dialogue in Hungary is enterprise level collective bargaining, as over 90 per cent of collective agreements are concluded by single employers.²⁰ Most of the interviewed employers' association and trade union leaders agreed that social dialogue is more effective and vivid at company level as there is more space left for negotiations for the trade unions. Collective agreements can alter statutory conditions not only to the advantage but also to the detriment of employees, as the Labour Code of 2012 enables parties to the employment contract to set certain conditions at a lower level than provided for by the law. However, individual level negotiations have a negative effect on employers' willingness to bargain collectively.

In the following section, our focus will be on two areas, both of high importance for Hungarian society and the economy. The first is the health care NESC sector, due to its crucial importance for society. Severe problems have occurred in this sector since the 1990s, across different governments. Health care is an issue which becomes politicized easily, and it is a sector which has been "under construction" for two and a half decades, very few systemic governmental reforms have been executed. Most of the measures failed because they were based on short-term political improvisation, often revoked soon in response to social resistance or protest.²¹ Also, health care is the sector that has been hit the most severely by labour shortages since Hungary's EU accession, as its workers have become mobile and often leave for West European countries. All these changes have an important effect on the sector itself, on the position of union representatives and on all participants NESC social dialogue.²² The second area of focus is the public education sector, another major public service system of the state, which is also a „problem area" of Hungarian society. Continuous reforms, the sharply falling results of students on 'PISA' tests,²³ wage problems of teachers, recent centralization by the government, and drastically falling social prestige of teachers all point in the same direction, often labelled as the „general crisis" of the public education system. We chose to have a closer look at these two sectors also due to the fact that the state in these cases figures as an employer too, thus it allows us to get a better understanding of its role in this capacity as well. The following sub-section will attempt to introduce some of the main concerns

20 National Labour Office database on collective agreements, http://mkir.gov.hu/lista2_1_3_1.php

21 For example a fee payable at the spot when visiting a family doctor, GP, to prevent the 'overuse' of the public health care system ("vizitdíj") had an extremely short and infamous history.

22 National Labour Office database on collective agreements. Available from: http://mkir.gov.hu/lista3_2_3_7.php

23 The Programme for International Student Assessment (PISA) is a triennial international survey which aims to evaluate education systems worldwide by testing the skills and knowledge of 15-year-old students who are nearing the end of their compulsory education. PISA assesses how well they can apply what they learn in school to real-life situations.

in these sectors, the scope for social dialogue and its failures, and also the alternative grassroots initiatives of teachers, conceived outside of the traditional trade unions as the response of their inefficiency to deliver to the expected level.

The health care sector

As suggested earlier, the Hungarian public health care sector struggles with multiple problems, including inefficiency, high costs, old infrastructure, “leakage” of the system (money disappearing), corruption, and an ageing population with bad health conditions, just to name a few major ones. In addition, the severe labour shortage, among both nurses and doctors, poses an enormous challenge. This situation has emerged NESC at the intersection of various negative processes: since the European labour markets have become accessible for the Hungarian workforce, large numbers of Hungarian nurses and doctors have chosen to work abroad, for significantly higher wages and in much better working conditions. In parallel, the quality of the working conditions in state hospitals is sharply falling, and understaffing, lack of financial resources, stress, overload, and burnout are major issues both among nurses and doctors.

Despite the negative tendencies in the health care job-market, trade unions active on the scene do not perceive their bargaining position as very strong. During the interviews conducted with trade union representatives, different types of difficulties were articulated. On a national level, the major issue is political loyalty or “neutrality”, whatever this means. One of the major confederations appears to be „bought off by the government”, at least it does not seem to be expressing strong critical points against the government measures affecting the hospital staff negatively, or rather it behaves quite permissively, yet they cannot build a strong membership. As an interviewee stated *“We cannot do more for the people if they don’t feel the need to join the union. There is this tendency in our region to expect others to act on their behalf...they don’t want to pay the union fees or to become active...In other cases, we try to fight for better working conditions for people...there was a case when we fought for less working hours... and instead of appreciating it, they will still take up extra-hours. Such people do not deserve to have a union”* - a very critical, bitter opinion of a government-friendly confederation leader, arguing that the fault is with the workers who can’t clearly see their own interests betray the goals represented by the union, and are ready to sell their labour cheap. Small, alternative trade unions take a much more critical stance towards government policies, however their position is not strong either.

The inactivity of workers and their lack of interest in joining a union is analysed differently by trade union leaders. On the one hand they think people do not join unions because they do not believe that collective bargaining and exercising pressure can lead to substantial results. Behind this reasoning lies the idea that though Hungarian society needs changes from below, instead things happen in a top-down manner from the institutional leaders or the state (or head of state). Second, even if people believe in collective action, they tend to „free-ride”, that is expect others to become union members and fight it out for all, or they expect leaders to fight things out.

Lack of interest and inactivity of people in 'real life' situations is often complemented with virtual activity on social media. Clearly the latter is effective in mobilization, but it is less effective when the need arises to demonstrate union power *en masse*, on the streets of Budapest or elsewhere, at union events. However, even demonstrating interest or virtual involvement is not without consequences – internet activities of employees are often monitored, policed, or clearly restricted by hospital management. *“For instance in a hospital in town M, employees can't express their opinion on FB, can't press a like [to a post]. Fortunately, not everyone takes it seriously. There is certain activity on FB, but far fewer people speak up in real life.”*

A wide-spread practice of the government is to divide trade unions. This harmful competition weakens the already not too strong membership of trade unions and has a detrimental effect on their capacity to influence the legislator. This practice can be demonstrated by the following example where the pro-government actor was able to deliver results, however they misperceived the real industrial needs.

As a response to the lack of nurses, public hospitals started hiring private nurses through agencies to ease the problem of understaffing.²⁴ This widespread practice got into the national news during our fieldwork, in the month of September, 2018, when in an intensive unit of a provincial hospital in Western Hungary the entire emergency ward unit submitted its resignation to the hospital management. The reasons were understaffing and inadequate working conditions. (Later on, similar instances took place in some of the Budapest hospitals.) The hospital tried to mitigate the situation by inviting back retired nurses, hiring nurses through private agencies, and through internal rearrangement of workforce.

To fill the gap with contracted nurses generates a lot of tensions within the system. The wage difference between the salaries of regular nurses working as public service employees and the salaries of contracted nurses obviously creates a wage related tension. Those public service employee nurses who are unhappy with their salaries will themselves sign up for extra work to agencies in another shift as privately contracted nurses in another hospital. They soon become overworked, tired, burnt out, and their family relationships suffer. However, this is the only way to survive financially as a nurse without leaving the profession or moving abroad. *„People don't work eight hours, but more, and this appears in statistics as if there were more people. There are a few full-timers, and then there is an additional team, which comes for a further four hours and for the night-shift. This makes the employees absolutely vulnerable because they need this extra income, especially in the countryside, where only one hospital is available...they can't go anywhere else. Thus, they suffer...”* *“Obviously few men tolerate it, maybe 80% of them don't, if a woman works so much, if mum is never at home.... It is obvious that families are prone to fall apart more easily in this tense work-schedule than under normal working conditions”*

Nurses often work 36 hours in a row and juggle between three or four workplaces so they can obtain a few hundred thousand forints extra. At the same time their responsibility is enormous, and they can be easily held responsible by their superiors for treatments they had to conduct under less than ideal working and material conditions. This is a slippery terrain where even the smallest mistake can be easily used against them.

²⁴ The interviewee representing an independent trade union of health care workers explains that the deficit of nurses is now a permanent crisis. According to the Chamber of Hungarian Healthcare Workers (MESZK), compared to the standard of developed West European countries, 25-26 thousand nurses are missing from the Hungarian system.

Despite their vulnerability most of them do not join any of the trade union movements, even though theoretically the extreme shortages of employees may increase their bargaining power and their precarious situation could function as a strong motivating factor.²⁵ *“And therefore, even if we should become stronger, they do not participate in trade union activities. People are so exhausted, so tired that when they go home, they just go to sleep and then go to work again, just able to meet their minimal needs...Exhausted, tired, and everyone is afraid that if they speak up in their own interest, it will lead to very bitter consequences, they will lose their jobs.”*

Such situations in the health care sector lead to segmentation of the workforce, alienation, a feeling of being threatened, and weakening voices of labour self-representation without the mass support of workers. In this situation, the government is directly interested in silencing any collective claims, its interest being to preserve alienation and the sense of fear. For this, political tools are being used just like on the national level of SD, by creating political enemies out of dissident voices, eliminating them (e.g. sacking hospital directors who speak about critical conditions in the hospitals), while pre-empting any union claims by re-employing nurses (from other hospitals, through agencies) on a private basis. Partial privatization of the Hungarian health care sector is a large topic beyond the scope of this article; here we would only like to highlight its negative consequences for the union movement and the entire sectoral SD.

2. Public education

Between 2015 and 2017 a clearly articulated and dynamic social movement emerged in Hungary in the form of street protests, civil disobedience activities and other forms of social resistance. Some of the teachers started wearing checked shirts as a protest, in the words of one of the leading politicians from the governing party presenting teachers in a negative light as “unkempt” and unprofessional. Entire teacher collectives began posting photos on Facebook wearing checked shirts, followed by a mass movement first in the virtual world, later on the streets²⁶. Alliances with other civil initiatives were identified and established during the peak period of the movement, thus broadening the social resistance and building a common language.

Their major claims included decentralization of the education system, reducing the workload of both teachers and students, shifting emphasis from lexical knowledge to improvement of competences. Though partial, mostly cosmetic structural changes have been achieved, real decentralization or major revision of the curricula did not take place, and the authoritarian techniques of the ministry of human resources where education belongs, have remained largely unchanged. Moreover, centralization and total control continues, for instance the ministry is pushing out alternative textbooks from the market and trying to create a fully centralized system of teaching material without giving the freedom of choice to the teachers, a general practice since the 1990’s. While the government gave only political answers by threatening teachers who joined the movement, by individually tailored political attacks through government-friendly/ public media against the leaders of the movement, the educational grassroots movement was busy working on technical answers to issues raised

25 Like it happened in the automotive sector where collective bargaining and strikes resulted in higher wages and better working conditions.

26 A few examples from the government-critical media: <https://444.hu/2016/02/17/kockas-ingben-allnak-ki-a-diakok-a-kockas-ingbe-bujo-tanaraik-mellett>, https://index.hu/belfold/2016/02/17/a_nap_amely_divatta_tette_a_kockas_inget/.

during the protest, even though in some instances signs of politicization, a general criticism of the regime appeared from time to time.

By the time of our research, street protests connected to demands concerning public education had gradually died out. The 2018 April election results, bringing a sweeping victory for the governing party, meant a decisive momentum in this process, namely loss of hope and a recognition that previous efforts have not reached their goal, as an interviewee involved in the 'Tanítanék' movement²⁷ summarized it. According to their reading of the developments, no forms of social resistance have led to tangible results, and large segments of Hungarian society remain passive, silently supportive of the oppressive structures and practices of the current regime.

The high level of social mobilization was unsustainable, especially as all their activists were full-time teachers, struggling with daily issues of teaching, not finding enough time for movement-related activities on a regular basis. Instead, what remained by the end was only a handful of burnt out activists. In addition, the government-controlled media easily targets and destroys such people, as they are few and without a mass support backing them.

In addition, internal tensions could be detected between traditional trade unions and such new, grass-roots social movements, based on the interviews organized around the theme of the major street protests related to public education and the "checked-shirt" movement. The alternative movements felt that trade unions succumbed to too many compromises with the government during the negotiation period of 2015-2017. Lack of support from established trade unions was felt when independent movements initiated an action, our interviewee added.

Perhaps the most important professional result of the social movements in the area of public education was a professional document and common understanding called Educational Minimum: a declaration and program prepared by professionals of the 'Tanítanék' movement on the most essential and urgent reforms needed in the public education system. It has included a political commitment as well, signed by all the oppositional parties before the 2018 national elections. The election results, the return of the ruling party with a two-third majority erased all high expectations and pushed the entire movement into deep crisis and hopelessness. *"Nothing is left of it by now...I guess we need some time to recover from this and rethink the possibilities...2-3 of us are left from the movement...I guess in a year's time I will be leaving the teaching profession, and maybe the country as well..."* - thus closes our discussion our interviewee from the 'Tanítanék' movement.

27 „Tanítanék” movement was the umbrella organisation for public education teachers during the protest. Tanítanék literally means „I would teach” in Hungarian, refers to a famous line of the Hungarian poet, Attila József, but also to the inability of thousands of teachers in the public education to teach under „normal” circumstances, without being exposed to daily politics, lack of resources, constant reforms and reorganizations, heavy work overload, excessive administration and other challenges.

CONCLUSION

Based on the SD events of the recent past in the two sectors briefly introduced above (health care and education), it can be concluded that social dialogue remains unsuccessful in some sectors, even if it achieves smaller or larger, but definitely local level victories in other sectors, like in the automobile industry. For specific structural (economic and political) reasons, health care and education are not sectors where unions' demands are easily heard by the state. It can also be concluded that in these sectors, SD cannot really be substituted by alternative modes or ways of claim-making. The cases examined suggest that alternative ways remain ineffective in the long-term, bringing only partial successes in isolation, and in the short-term, without having the capacity and resources to expand and attract large masses, thus achieving a real social impact or change. Despite the severe and long-lasting social injustices and increasing precarity of workers in various sectors of the Hungarian labour market (including health care and education), workers' support for trade unions has not increased, which means that the unions could not really capitalize on the situation. However, this is not necessarily their "fault", it is more part of the "game", of the nature of the increasingly authoritarian or as it likes calling itself, illiberal political regime developed in Hungary by the ruling party by the end of 2010's.

This is a political regime built on fragmentation of society, on individual fears (for further evidence see content of the public media), where existential anxieties overrule the possibility of a strong collective action led by the unions. What remains instead, to "let out the steam" accumulated by the worsening conditions and increasing precarity is various virtual activities on social media, such as facebook. People share their opinion, experiences, and views, while others fear to even do that due to the sense of increasing state surveillance. Whatever is the situation in the virtual spaces, it has to be noted that its impact is limited- even though theoretically it could mobilize to action and unite, in most cases it remains a tool of "armchair democracy", allowing people to comment, providing a false sense of participation, but in reality such individuals remain passive onlookers of socio-political events. It is legitimate to ask why people retreat into such passive forms of social action or participation. Many are overworked, as presented through the case of health care workers, they work in several shifts and do not find time to get involved in union activities. In addition, workers have an increasing sense of precarity, understanding that the changed Labour Code (2012) does not protect them sufficiently. In addition, the state/ ruling party keeps increasing its surveillance of state employees, public sector employees (like the teachers and health care workers in the hospitals), therefore existential fear (fear of losing one's job) dominates. Being overworked, feeling alone, and afraid does not motivate people to spring into collective action.

In terms of the politization of the conflict, the government tried to prevent it becoming professional or technical, and managed to keep it in the realm of the political. On the opposite side, the grassroots movement worked on professional/ technical answers for the problems raised in the area of public education, but at the same time, especially during street protests and moments of mass mobilization, managed to articulate political messages as well, messages of discontent and criticism of the regime. However, neither of these efforts were sustainable in the long run due to the character of the regime they were opposing.

FINAL CONCLUSIONS

As the above parts of the texts pointed out, social dialogue in Hungary does not fulfil its role either at the national, sectoral, or workplace level. It cannot fulfil its role for numerous reasons. Institutions of social dialogue are in place and operate, meeting the formal criteria of democratic provisions. However, some of the legal solutions do not meet international standards, especially that of the ILO on tripartite social dialogue, and some of them bypass democratic legislative process, like the establishment of the PCF by a civil law contract. Social dialogue as a democratic process is dysfunctional due to the fact that these institutions and mechanisms are not implemented in a democratic way, and no real dialogue or actual debates take place. Instead, these mechanisms work in a top-down manner: the illiberal state and its central governing bodies expect certain solutions and answers, leaving no scope for a transparent democratic dialogue with the relevant social partners.

If the entire system, as pointed out at different parts of this text, is dysfunctional and does not fulfil its function in the society, why is it still present? Why is the government keen to preserve it? It uses institutions of social dialogue to preserve the image and impression of a democratically functioning state of the EU; however, not surprisingly, it is unable, and it seems unwilling, to preserve the values and achievements of the European social model. This also means that the current government is severely misusing the institution of social dialogue to legitimate itself, its political tactics and broader strategies within the EU.

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