

ISMERTETÉS

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International Seminar on the Regulation of Small and Medium Enterprises

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An international seminar entitled “**Regulatory Options for Small and Medium Enterprises**” was successfully organised by the National Federation of Workers’ Councils on 3-4 June, which event was also supported by the European Centre for Workers’ Questions (EZA). The event was attended by nearly forty persons, in addition to the Hungarian guests, we had participants from our partners active in the field of the trade union movement and employee training programmes from Austria, Romania, Cyprus, the Czech Republic, Portugal, Albania and Slovakia. The primary goal of the seminar was to start a professional dialogue on the regulatory environment of micro-, small and medium enterprises, with special regard to the protection of employee rights, the possibilities of the collective enforcement of interests, as well as the strengthening of the social dialogue. The participants discussed those solutions that may promote the creation of equitable and sustainable labour relations in the sector, in which the trade unions play a critical role, through case studies, national practices and common challenges.

In his welcome speech, **Imre Palkovics** stressed that, through the efforts of the past three decades, the Workers’ Councils have joined the operation of the key structures of international labour relations, both on the level of movements and institutions. The Federation takes active part in the European trade union structures and in the system of the Social Dialogue of the European Union. The Federation keeps membership and informal relations with the international organisations representing Christian-social values, with special regard to the European Centre for Workers’ Questions (EZA), whose support Mr. Palkovics thanked for. He emphasised the economic and social significance of small and medium enterprises, as well as the responsibility that lies with regulation in the protection of employees. He called attention to the need for a stable and fair regulatory environment, which protects the rights of the employees and supports the operation of the enterprises at the same time. He also touched upon the question of common European challenges, such as digitalisation, the green transformation and work-life balance, which “can only be met by dialogue and cooperation”.

In his over ninety-minute talk, **Alexander Jansa** (Austrian Trade Union Federation) gave a comprehensive view of the exemplarily stable and well-functioning system of labour relations in Austria, which is laid on the foundation of an economic and social partnership resting on social dialogue. The close cooperation between the

trade unions, the works councils and the workers' chambers plays an outstanding role in this "three-pole model". The uniform pluralism of the Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB), which, however, also manifests internal (political) viewpoints, ensures the representation of a wide range of members with various fractions, such as the Christian-Socialist branch of FCG (Fraktion Christlicher Gewerkschafterinnen). ÖGB plays a key role in the system of collective agreements, which covers almost 100% of Austrian employees (the highest percentage in Europe), as a result of which there is not even a statutorily defined minimum wage amount in the country, as the lowest sectoral minimum wages are determined in the sectoral tariff agreements, which are among one of the highest amounts in Europe. The system of collective bargaining is operated by the players on the sectoral level, thus ensuring uniform work conditions on the entire territory of the country. By supplementing these, the works councils are legally strong participatory institutions (with numerous co-decision competences), which guarantee the representation of employee interests on the corporate level with nearly fifty thousand representatives (they can be chosen over an employee number of 5). By "supplementing" these, the workers' chambers are based on mandatory membership, thus access to professional consultancy, legal consulting and advocacy forums is ensured for every employee (except for freelancers and agricultural employees). The synergy of these three players promotes peace at the workplace, social security, as well as economic competitiveness. A good example for this is legal representation (in labour cases), which, on the other hand, is provided by the trade unions. The practice of institutionalised dialogue is based on finding a consensus rather than on conflict management, which is one of the greatest strengths of Austrian social partnership. The Christian-Social FCG fraction is especially effective in the fields of social justice, family-friendly policies and the common good within ÖGB. In his presentation, Alexander Jansa pointed out that the key to the success of the Austrian model is trust, predictability and a strong institutional and political background, this is why they can efficiently handle the challenges posed by the SMEs as well. The level of organisation of the trade unions is excellent (1.2 million members), especially in the public and industrial sectors, which greatly contributes to the strength of advocacy, and which is also stable financially, due to the membership fees defined as 1% of the earnings. Through the tripartite mechanism, the employers, the employees and the state jointly create the laws and guidelines concerning employment. In his talk, Mr. Jansa also explained the collective labour law organisational frameworks of the employers, among others, the role of the so-called Economic Chamber (Wirtschaftskammer Österreich, WKÖ). Membership in WKÖ is mandatory for Austrian enterprises (the exceptions being agricultural employees, "freelancers", e.g., medical doctors, lawyers, pharmacists), thus this organisation overarchingly represents the interests of Austrian employers. WKÖ is one of the main parties to the social partnership and it holds regular negotiations with the employees' side (ÖGB, Arbeiterkammer), as well as with the government, while WKÖ takes part in the conclusion of collective agreements as the employers' side in several sectors, with ÖGB's trade unions. All this together results in a stable, balanced and cooperative labour system, which is otherwise frequently challenged by certain parties and even the European Union (with a claim to political influence).

At the end of the speech, the collective labour law situation of persons with a legal standing similar to that of the employees was also discussed. The key content of the positive, and rather complicated, legal definition of the scope of these persons, is that it means persons who are in an economically dependent situation and need social protection just like employees, they pursue their activities on the basis of an engagement or business contract, they perform their work activities in person and mostly for a specific person, or an average one half of their income comes from this very person. In principle, the Austrian regulation provides an opportunity for the advocacy groups of these persons to enter into collective agreements with the advocacy groups of the principal's or client's side but this is not free of contradictions in Austria either, especially in the case of couriers.

In the talk given by **Dr. Zoltán Bankó** (habilitated associate professor), the digital solutions supporting the employment practices of small and medium enterprises were discussed, touching upon the theoretical questions and practical implementation alike. In the presentation, a detailed account was given of the findings of the research project and digital content development programme related to small and medium enterprises implemented in cooperation between Wolters Kluwer and the University of Pécs. The primary goal of this project was to develop employment, labour law and competition law “smart” documents and innovative mechanisms for small and medium enterprises, and to promote workplace data protection and competition law compliance was also a key objective of this development project. In addition to this, the presented achievements included easy-to-use and efficient automated contracting processes, sample documents, labour law compliance audits and internal regulation archives. Furthermore, such digital solutions were also shown through the example of the implemented content development whose goal was to elaborate the analysis of laws and regulations, as well as sample documents, explanations and expert solutions.

In his presentation, **Dr. Imre Szilárd Szabó** (executive vice president, lawyer) discussed the challenges posed by the enforcement of collective labour law in the small and medium enterprise (SME) sector. He pointed out that in the vast majority of the former communist countries, including Hungary, the system of collective agreements and labour relations basically works on the level of (large) corporations. The “challenges” related to the trade unions are also historically determined by the structure of the trade union movement that is essentially built on the corporate level. Sectoral agreements and administrative “extensions” are very rare and the lower the number of persons employed by the employer in question, the lower the trade union presence will become. In the case of enterprises with an employee headcount lower than ten persons, this extent is hardly tangible, and it can be stated that these businesses “are free of social dialogue”. One of the reasons for this, for example, is the unique dynamics of family businesses, the complex regulatory environment (which starts out from the logics of a large corporation), as well as the lack of interest and motivation of trade unions. At the same time, Mr. Szabó underlined that, although to a limited extent, there are labour law options available for the conclusion of collective agreements, even through the collaboration of several employers, a specific example for which is shown by the sector of road freight transport. At the end of his talk, he stressed that the key tasks in the world of SMEs primarily include targeted legal consulting, networking (especially in the

online space) and even the control activities pursued in close cooperation with employment supervision authorities, furthermore, the fair elaboration of the regulation of the lowest wages, as those employers that employ the vast majority of the employees (70%) cannot be done without.

László Krisán, CEO of KAVOSZ Zrt, co-president of the National Association of Entrepreneurs and Employers (VOSZ) explained that the improvement of the competitiveness of Hungarian small and medium enterprises (SMEs) requires complex and coordinated measures. In his speech, he underlined that the Works Councils are an important partner of VOSZ and they have been happy to collaborate in as many as possible reasonable and vital questions recently, as their goal is the same in many respects, although the interests are different. He highlighted that the situation of the trade unions in the SME sector is in fact difficult, as the latter is not the place where the traditional instruments suitable for exerting pressure are applicable, which is also due to the contributing factors explained by the previous speaker. In his opinion, the strengthening of the SME sector primarily depends on increasing their capital strength, the improvement of their exporting capacities and the incentives given to their technological developments. He pointed out that a stable, predictable business and regulatory environment and targeted financial support are needed. He deems it important to spread digitalisation, automation and robotisation, as well as investments into human capital, which involves the strengthening of vocational training, adult training and academic cooperation between universities. In his professional opinion, Hungarian SMEs may only become genuine economic drivers if, through the collaboration of the state, the educational system and the business sector, such a knowledge-based, innovative economic environment can be created which ensures increased productivity and sustainable development in the long run.

In his talk, **Zoltán Zai** (economist, Works Councils) described the initial period of the development of the Hungarian market economy, and he gave an overview of the preceding entrepreneurial endeavours and the earlier phases of the changed regulatory background after the fall of communism. He presented the role and weight of the Hungarian small companies within the national economy through several indicators (the number of enterprises, employment rates, added value) and also explained which criteria are necessary for an increased well-being of society as a whole through a jumpstart in efficiency and productivity arising from the different technological innovations, also mentioning the role that small enterprises and trade unions play in this process.

In his talk, **Dr. Jácint Ferencz** (head of department, associate professor) stressed that it is the contribution of small and medium enterprises to employment that is the highest from among the companies of different sizes and that the SME sector generates more job opportunities than large corporations. The source of the problem is that if the same rules are to be applied for small enterprises as for the larger multinational employers with a high amount of capital and employing even several thousand persons, then such regulations do not reckon with the employment needs and capacities of small enterprises. At the same time, however, if you exempt small enterprises from fulfilling certain obligations imposed on them by labour law, then the employees working there will be worse off than those employees who are employed by a larger company. On the other hand, this latter solution may violate the fundamental

employees' rights of the employees working for small companies, with special regard to the right to equal treatment, thus it deteriorates their situation as compared to the other players of the labour market.

Exempting small enterprises from the application of labour laws and the rules relevant from a labour law perspective, or the lack of compelling them to meet their obligations in practice apparently exerts a very slight positive economic effect, however, it exerts a considerably adverse effect on the legal standing, work conditions and social security of the employees. As good practices for differentiated regulation, one may quote the labour law supervisory practices of Poland, or the SME organisation of Italy. The Polish "first control" is of an expressly educative nature in the case of SMEs, it is not sanction-oriented, it is specifically aimed at promoting labour law compliance. The key objectives and tasks of *Confapi* (Confederazione Italiana Piccola e Media Industria Privata, Federation of Italian Small and Medium Enterprises in the Private Sector) include the protection and promotion of the actual values of the Italian SMEs. Furthermore, it enters into national-level collective agreements for the SMEs operating in the processing, transportation, service and industrial sectors. The collective agreements signed by Confapi are applied by some eighty- three thousand companies employing over eight hundred thousand employees, i.e., the employees working for these employers also have a share of the advantages of the collective agreements.

Economist **Prof. Dr. Csaba Lentner** pointed out that the competitiveness challenges of Hungarian small and medium enterprises (SMEs) are complex, which present themselves on the structural, financial, human resources and regulatory levels alike. In order for the SME sector to genuinely become the backbone of the national economy, such a comprehensive economic policy approach will become necessary which does not only focus on increasing the number of enterprises but also, on strengthening their economies of scale, capital strength, exporting capacities and innovative potentials. It is important to stress that in the period between 2010 and 2019, i.e., before the Covid crisis, the Hungarian economy ran an outstandingly successful and dynamically growing course, which resulted in stable financial bases, incentives for investments, and higher employment rates. This successful growth curve was broken by the pandemic and the ensuing global and regional (Russian-Ukrainian war) economic challenges, thus it is imperative to redefine the criteria of competitiveness at this point. The key to sustainable development lies in the trio of knowledge, digitalisation and financial stability. In this context, the development of a knowledge-based economy holds special significance, which can only become reality if the level of training, the professional knowledge and the digital competences of the employees are constantly improved. The competitiveness of those enterprises which produce high added value is closely related to the quality of the available human resources. The targeted state incentives, especially the preferential loan programmes such as the Széchenyi Card, play a key role in the maintenance of the development capacity of the enterprises. At the same time, the adaptation of the system of public and higher education to labour market needs is also of key importance, as well as the creation of a regulatory environment that is predictable and enterprise-friendly. The long-term competitiveness and sustainable development of the Hungarian economy depend on whether the SMEs are capable of joining the global value chains, increasing their productivity and making a meaningful

contribution to the strengthening of the national income, the employment rates and the financial equilibrium.