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Regional Levels of Civilian Initiations in Employment and Interest Arbitration I. – from ILO Standard Tripartism to Multipartism

1. PREFACE

In 2012, Hungary will celebrate the 90th anniversary of her ILO membership, while the ILO just celebrated the 90th anniversary of its formation for several years ago. It did this in such a period, when, due to the matter of global changes, the organisation faces one of the largest challenges in its history. The treatment of the crisis is the task of each single country, however, due to the globalisation there is a need occurred for concerted, modern answers, what are likely to re-dynamise the economy and dissolve the social and labour-market tensions.

The starting point of this study is the social dialogue's, nearly a hundred years ago developed, traditionally formalised institutional system that is incapable to follow social and economic transformations with proper elasticity at the same time. Till now, the civil sector has not been placed into this tradition, but worthy to deliberate, hence its presence may promote the socialisation of political decisions, the citizens' active participation (through their organisations), with the widening of the social market for a more efficient treatment of the economic crisis. The aims stated above are equal to ILO's endeavours; hence, after the situation evaluation it is justified to think over that, according to ILO's new recommendation, it involves the interested parties equivalently into the consultation; let them be trade unions, employer's associations, vocational associations, or civil organisations.

2. RESULTS

2.1. Civil organisations in the employment reconciliation of interests

What do we mean on civil organisations? Where is this concept derived from? Why do we consider their presence indispensable that cannot be missed in our present days' employment reconciliation of

interests? At the participation we consider the Hungarian regional policy's good practice where this presence has successfully come true already.

As a starting point, let us distinguish two types of institution: one of the institution groups is such kind that disposes power of the state; the other one does not. Power of the state is at their disposal the power structures, administrative and judicial organs, or in another name lawmaker, executive and judicial organs (as far as some people are concerned the media is addressed as the fourth, virtual power branch).

No public power organisations, institutions are also civil organisations, foundations, associations and other civil society organisations such as political parties, churches and public bodies. Civil organisations do not have public power, but the limits are too vague, because non-governmental organisations are also the chambers (public bodies), which have some public authority functions. Nevertheless, the boundary between non-governmental organisations and public power institutions can be precisely identified. After the derivation from the roles of power classification, it is worth to look at the cavalcade of denominations about the civil/non-profit organisations.

- NGO (non-governmental organisation): highlights the distancing from the state and politics.
- Civil organisations: emphasize the importance of citizens' initiatives. In this approach, the non-profit/civil organisations include structural side of the civil society.
- Self-motivated (voluntary) organisations or social self-organisations emphasize independent activity.
- Third sector: stressing the independent sector as an appeared joint institution (public and market participants only).
- Charitable, philanthropic, altruistic organisations: this definition stresses the public good nature, attaches non-profit, community goals and motivations.

Perhaps, it is not surprising that the new government would like to make order in this confusion when the civil sector re-regulation also means an overview of the different conceptual categories and the various laws of systems.

The civilian/non-profit organisations may be by roles

a) with a social aim, when:

- they are institutions of democracy,
- visualise the autonomous right of free action, civil society's aspirations and pluralism.

b) economic purposes, in this case:

- the improvement tools of market economies,
- create a measurable economic performance¹
- appear as employers² and

¹ The statistics of KSH (Hungarian Central Statistical Office – English abbr. CSO) shows that the sector's revenues exceeded one thousand billion Forints in 2008. – In: A nonprofit szektor legfontosabb jellemzői 2008-ban, Statisztikai Tükör, Issue III. No. 192.

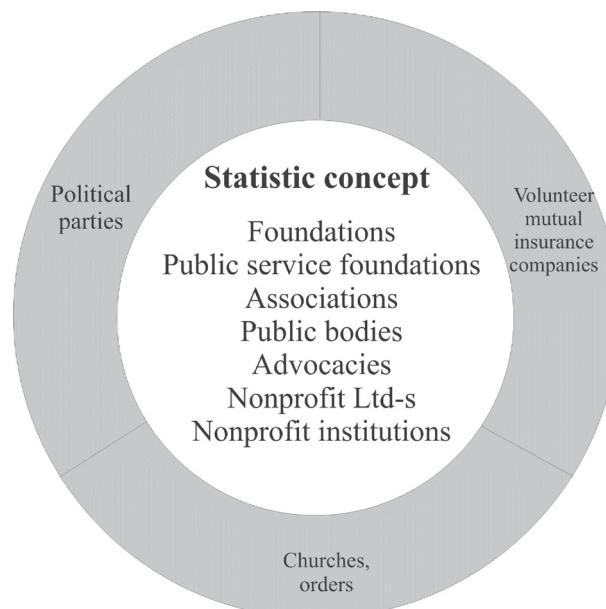
² Between 2000 and 2008, the number employed in industry increased more than 48 per cent, so as the total number close to 120 thousand value. (KSH)

- important institutions for redistribution³
- coordination of the public expectations and market demands⁴

Another approach shows creation of social organisations from the bottom of the citizens (Button-up), which are basically their organisations, organisings. On the other hand, the establishment, organisation and required formation of public authorities are always from the top (Top-down), in accordance with statutory provisions. The Hungarian practice knows the institution of public funds that can only be created by the local or state government, or the Parliament with state funds involvements.

The law regulates⁵ the creation of civil organisations, but only as an option. The creation of a public authority is required by law, for civil organisations it gives only the opportunity to enter, a pro-citizen or a common will of the people can decide whether to establish a civil organisation. The range is very wide; today many of the institutions are called as civil organisation. They are best known, of course, foundations and associations. If a poll carried out many of us would likely mention only these two organisations are marked as non-governmental, however this includes, of course, the party itself, because that is also organised bottom-up, its creation is only an option. Several other institutions are also classified as civil organisation, for example public bodies, chambers and unions. In Hungary, between the period of political system change (1989) and the present regime (within the last 22 years), a total of 76 000 non-governmental organisations have requested for their registration. Their spatial distribution is roughly proportional to the number of population. Budapest is exceptional, where the population proportionately much more likely to apply for a registered organisation.

Figure 1. Relation of the legal and statistic concept of non-profit sector



(Ed.: APRÓ A. Z. 2011)

³ The state redistribute the income that basis on taxes, levies, etc. with an abstract set of criteria for the citizens; civil organisations are likely to become participants to this process by taking tasks over state and local governments.

⁴ This feature is achieved through the social economy sector, creating the transition between primary and secondary (supported) labor market.

⁵ The Act II on the *Right of Association of 1989*

But go on further and look at the practice in how the sector is capable of displaying the interest of the groups they represent. Lobbying means any activities, which are able to promote civil society organisations and social groups that they represent, displaying the interests of the people involved in the wider community and also in the local and regional decision-making processes; it also works on activation of the local society and population to stimulate collaboration and influence the administration for the commonweal together with the cooperation of civil organisations. The employment policy of civilians in the people's fundamental right is to assert the right to work that can contribute to exposure, if and when the traditional tripartite dialogue could be replaced by the multipartite structure, a system that could also display the interests of the civil sector. The lobbying power is the most successful formation of interest articulation. The successful networking is characterized by:

- Common goals
- Active participation
- Common values, methods of labour, identity
- Trust among members
- Effective communication
- Motivation

Besides the network co-operation of ECOSOC⁶ (European Economic and Social Committee) have also been developed European levelled organisations:

- By type of organisation – e.g. European Foundation Centre, CEDAG
- Professional networks, umbrella organisations – women, young people, social organisations, green groups, etc.
- “Umbrella groups of umbrellas” (allies of umbrella organisations) – pl. Civil Society Contact Group
- Established networks on specific issues.

2.2. Reconciliation of interest in employment policy – ILO

The International Labour Organization is a specialised organisation of the United Nations (UN) that struggles for social justice and universally recognised human and labour rights. It was created in 1919, and it is one of the only major organisations that has survived the League of Nations which was followed the Paris Peace Conference, and which became the first specialised organisations of United Nations in 1946. The founders realised that need collaboration for the reconstruction. This was not intellectual, but more a practical alliance, because the answers were being looked for solving the crisis. The opposition between capital and labour was sharply formulated. The ILO creates international labour standards in agreement, or in the form of recommendations, defines the minimum level of basic workers' rights: freedom of associating and foundation of organisation, concluding a collective

⁶ ECOSOC, or European Economic and Social Committee is a consultative body of the European Union. Since its establishment in 1957, has been bringing expert advices to the main institutions of EU (European Commission, EU Council, and European Parliament). Offers opinions on the proposed European legislations, and it also issues “own-initiative opinion” about those questions which it believes should be taken up. One of its most important roles is to play a bridge between the European institutions and the so-called “organised civil society”. Through the creation of a structured dialogue with civil social organisations, it incentives influency their roles within the member states of EU, and also in the countries around the World.

agreement, prohibition of hard labour, requirements of equal opportunity and treatment, and other norms that regulate the conditions in their whole spectrum of labour life. In addition, it provides technical assistance in the following areas:

- Vocational education
- Vocational rehabilitation
- Employment policy,
- Labour laws and industrial relations,
- Working conditions
- Management training,
- Cooperatives,
- Social security, social insurance,
- Labour statistics, accident and labour health protection

The International Labour Organization supports the independent workers' and employers' organisations, offers training and advisory services to them. The ILO's tripartite structure is unique within the UN's system, the organisations of employers and workers participate as equal partners in works of the governing bodies.

The ILO is the organisation with the widest powers, where the office have some 700 employees. With their activities they are able to reach the most distant points around the world from Bangladesh to China and Black Africa. For 20 years it has been 40 regional offices operating in the World, where Budapest and Moscow are functioning as sub-regional offices. The Hungarian office covers 18 countries. At the Secretariat there are tripartite-like departments working. This has political causes. It is wanted to be generated to pay attention to the interest. It is important to have control, which extends to all protectional levels.

Its professional units:

- rights organisations – standards, preparation of standards and promotion of the national implementations,
- employment – is designed to have place to practice or labour,
- social safe and security – dealing with the retirement, working hours and conditions, and safety issues,
- social dialogue – ACTRAV

2.3. The National ILO Council

Hungary has been a member of ILO since 1922, where the typically specialized forums for the social dialogue are the EU Integration Council and the National ILO Council, in which part of the participants are requested by the government, but the social dialogue bodies are free to send their representatives for observing. These forums are giving deliberative and exploratory opportunities for the participants.

Amongst the international organisations ILO is the only one that has source of law binding upon the state employment service. Hungary proclaimed her Act III/2000 with the convention no. 88 on the Employment Service in 17.6.2000. It declares that all the member states of the International Labour

Organization, for which this Convention is in force, liable for maintaining duty free, state (public) labour organisations, or to provide its maintenance with four core functions. These are:

- to operate an employment agency,
- to operate a labour market information system,
- to manage labour market policies, programs,
- and to provision for the unemployment.

However, besides the required numbers of state tasks, several functions, activities can occur which increase employment or the chance of that by promoting adaptability, because: *„Employability ... encompasses the skills, knowledge and competencies that enhance a worker’s ability to secure and retain a job, progress at work and cope with change, secure another job if she/he so wishes or has been laid off, and enter more easily into the labour market at different periods of the life cycle.”*⁷

Besides the particular investment into labour and promotion of employment services there are strongly presented needs from the members of the civil sector within macro and regional level social dialogues, for participation of occupational interest reconciliation and as well as ensuring the participation itself. It is particularly inequitable those assertive reactions addressed to some members of the sector (whom incidentally are with significant innovation potential, confidence about job seekers with disadvantageous social status, and also credibility and experience in achieving labour market programs and services) whose intentions of helping are rejected by the representatives of government, employers and employees. Although, this justified by neither their status nor the employment climate.

2.4. Regulation of the employment reconciliation on macro level

The National Council for the Reconciliation of Interests (in Hungarian: Országos Érdekegyeztető Tanács/OÉT):

- The government, in the nationally important employment policy issues, conciliates with the organisations of workers and employers nationwide at the National Council for the Reconciliation of Interests.
- Reviewing the draft legislations that directly affecting employment.
- Request an annually report from the Labour Market Fund Steering Committee, LMFSC (in Hungarian: Munkaerőpiaci Alap Irányító Testülete, MAT)
- Through the participation of national associations of employers and employees, OÉT selects the employer and employee representatives of LMFSC/MAT and make a proposal for their revocation.

The Labour Market Fund Steering Committee, LMFSC is a committee that is made up of employers, employees and representatives of government bodies, that practices and meets rights and obligations with the Labour Market Fund, in accordance with the Employment Act. The employers’ side of LMFSC composed of employers’ representatives, the employees’ side of the workers’ representatives, and government side of the governmental representatives. The LMFSC’s mandate is

⁷ Report of the Committee on Human Resources Training and Development. International Labour Conference Eighty-eighth. Session, Geneva, 2000

for four years. The members of LMFSC appointed and recalled by the Minister for Employment and Labour. In accordance to the members of LMFSC, Employment Act determines different conditions for the conflict of interest. Each side of the LMFSC may not be carrying more than six participating members. In point of the Labour Market Fund, LMFSC decides about:

- the transfers between each of the basic parts of the Labour Market Fund – except transfers from the base of training’s sub-funds –,
- ensure the contribution for reconciliation of the operating conditions,
- joining to central programmes about economic and regional developments, moreover about the domestic financing, especially focusing on support programs as rehabilitation employment and equal opportunities, and development programs of labour market institutions,
- Before submitting of the projects, PHARE, and after the European Social Fund co-financed labour market programmes implemented in the domestic financing of the Labour Market Fund, of the tasks about the state employment agency for programmes launched by the LMFSC, and the related section of the Labour Market Fund that is not designed for operational funds, and the 39 § (6) of the financing of expenditure;

It gives opinions about the annual budget of the Labour Market Fund. Moreover, it also gives opinions on support for job seekers, job creation grants, and also about the draft legislation for the management of Labour Market Fund, and – except for supports to create jobs – the sole discretion of the Minister’s draft. If the LMFSC’s opinion was not born within 30 days for submission of proposal, the Minister would issue the regulation – of employment programs and promote the restructuring support rules, the Labour Market Fund may be part of the rehabilitation fund for support and moreover the support that is determined in 19th § (2) – without hearing the opinion of LMFSC for the support of job seekers and job creational grants.

2.5. Meso-level – the duties of regional labour councils

In the regions, they operate as syndicates formed by the representatives of employers, employees and local governments with the aim of support to promote the occupational and labour market training, and the rehabilitation of the changed workability persons.

- Offers opinions on the principles of use and certain funds rate of the Labour Market Fund for the employment of available assets within the jurisdiction.
- Monitors within its jurisdiction and evaluate the use of the funds of the Labour Market Fund.
- Initiates and comments on the employment situation of its jurisdiction’s short-and long-term programmes, and monitors their implementations.
- Comments on the function of the state employment organ.
- Practices preliminary right by the commission of the executive’s executives of the state employment organ, and also by the withdrawal of executive orders.

Since the political system change of 1989 in Hungary, the national and regional (territorial) system and subsystems of institutions on social dialogue work with different actors, but with one exception

without the involvement of civil organisations. The principle of tripartism applies from the National Council for the Reconciliation of Interests via LMFSC to the regional labour councils, namely the government (local government) and the representatives of employers and employees make decisions. *However, the importance of functions in civil society has been steadily growing, its creative and innovative potential has resulted a significant expansion in employment. Its employment programs created jobs for many, who have once been excluded from the labour market, and implemented the re-integration for them.* Consequently, the civil sector has right to form laws for as an observer at first step, and also a structured dialogue-actors, and then being enabled for participation in decision-making on a formal-consultative level. The ILO might be a prestigious world organisation, which could start an experiment model proving that the institutions of social dialogue making value from tripartite to multipartite, and with new, socially legitimate, credible actor could enrich the dialogue. The policies, activities and actions shall be connected to each other, accordingly the ILO may also be able to coordinate, make a transparent mechanism for consultation, and could issue assessment and feedback.

3. PROPOSITIONS

One of the minimum standards of the new type of multipartite dialogue is a clean and clear content. The notice of consultation on communication must be clear and concise, and it must contain all necessary information that helps for answering. The consultation material must include the context of the consultation, its scope and objectives, which includes issue of discussion and questions that may be particularly important for the participants. (Details of hearings, meetings and conferences, contact details and deadline, the method of incoming data processing, “what to expect feedback” from the contributors and the description about the next steps, pertinent background information and their contact details.) In the pursuance of determining the target group of consultation, it must be ensured that stakeholders have the opportunity to express their opinion freely. The following stakeholder groups must be allowed an appropriate level of involvement:

- affected by politics,
- involved into implementing the policy (including representatives of the civil organisations)
- institutions and organisations, whose aims are designed for a direct interest in politics.

The proper selection of participants should be considered the effects on other employment policies (e.g. environmental or consumer protection), therefore, at the selecting the proper values are quality experience, professional or technical knowledge, consideration of non-formal needs, and previous experience in consultation with the participants.

It is essential to create foundation on the principles of proportionality and balance between the social and economic, small and large organisations or companies, wide range of institutions (e.g. churches) and organisations of specific target groups (e.g. women, unemployed and the Roma people). In the case of when a formal, structured organisation is consultative, the ILO must take steps towards that these components of organisations could represent themselves in their own sectors in accordance with prevailing rates.

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