

Committee on the Application of Standards

Date: 19 May 2025

Governments appearing on the list of individual cases have the opportunity, if they so wish, to supply written information to the Committee.

► Information on the application of ratified Conventions supplied by governments on the list of individual cases

Hungary (ratification: 1957)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

The Government has provided the following written information.

The Government is committed to the full implementation of the Convention and to safeguarding freedom of association and the right to organize, as well as to the protection of workers' rights.

The legal system provides adequate guarantees for the freedom to exercise trade union rights. The Government holds regular consultations with the national-level representative organizations of workers and employers on matters concerning the world of work, and remains open to adopting justified measures to respond to possible deficiencies in legal practice.

The Government considers the effective functioning of the ILO supervisory mechanism to be of great importance. In this context, it submits its national report to the ILO each year on the implementation of the relevant ratified Conventions and Recommendations, and it remains open to consultations with the ILO.

Regrettably, the Government has failed to provide a detailed response to the Committee of Experts' observations regarding the implementation of the Convention during the 2024 national reporting cycle. This written reply aims to remedy that omission and to reaffirm the Government's willingness and commitment to further national-level dialogue on the matters raised in the Committee's observations.

As for the consultations held with the social partners, it should be noted that the Consultation Forum of the Private Sector and the Government (VKF) was established in 2012 and has since become a prominent platform for social dialogue. Following consultations with the social partners, the rules governing the organization and functioning of the VKF were formally codified by government decree in 2024. The activities of the VKF focus primarily on

wage policy, employment policy and general issues concerning the world of work. Negotiations on the minimum wage and the guaranteed minimum wage also take place within this forum. The Government provides substantial financial support to national social partners from both the national budget and European Union funds.

Freedom of expression

Freedom of expression is considered a fundamental right protected and ensured by numerous international, European and national legal instruments. In Hungary, the entire legal system serves to protect fundamental rights, including the freedom of expression.

Article 10 of the European Convention on Human Rights and Article IX of Hungary's Fundamental Law state that everyone has the right to freedom of expression. However, it is clear from current regulations that this fundamental right is not absolute and may be restricted under certain conditions. Regarding the restriction of freedom of expression, Article 10(2) of the European Convention on Human Rights and Article IX(4) of the Fundamental Law provide guidance.

Judicial practice is also of great significance in assessing this fundamental right, as numerous decisions have been made by the European Court of Human Rights, the Court of Justice of the European Union, as well as at national level, including the Constitutional Court. These decisions define the concept, limits and criteria for assessing freedom of expression in the context of various personality rights.

In accordance with Article 10(2) of the European Convention, the European Court of Human Rights has established the criteria under which national authorities of the contracting States may restrict freedom of expression.

The fundamental right may be restricted if all of the following three conditions are met:

- (1) The interference – whether a “formal requirement”, “condition”, “restriction”, or “penalty” – is prescribed by law;
- (2) The interference must have a legitimate aim (for example, national security, territorial integrity, public safety, prevention of disorder or crime, protection of health or morals, protection of the reputation or rights of others; preventing the disclosure of information received in confidence, or maintaining the authority and impartiality of the judiciary);
- (3) The interference is necessary in a democratic society, meaning that the necessity and proportionality test must be applied.

As a first step, there must be an examination to determine whether there is a legal basis for the interference and whether such a law is publicly accessible, comprehensible, consistent and predictable. Regarding workers' expressions of opinion, Hungarian regulation clearly defines the reference points in Act I, section 8 and section 9(2), of the 2012 Labour Code. Section 8 of the Labour Code also defines the legitimate aim of the interference, namely the protection of the employer's reputation and legitimate economic interests. The third criterion of the necessity and proportionality test involves the determination of the extent to which the restriction qualifies as a necessary measure in a democratic society. The case law of the European Court of Human Rights shows general respect for the contracting States' margin of appreciation in assessing whether, given the circumstances, the disputed interference was necessary.

The Constitutional Court in its Decision 30/1992 (V.26.) AB, stated that “freedom of expression has a privileged role among constitutional fundamental rights; it is essentially the mother right of various freedom rights” and emphasized that “the distinguished role of the right of freedom of expression does not mean that this right is [...] unrestricted”.

Courts apply the necessity and proportionality test during restrictions. There are relatively few decisions examining this fundamental right within an employment relationship but the Constitutional Court has stated the need to consider the specific nature of employment.

In labour law, the Constitutional Court uses the so-called “loyalty clause” as a standard, which appears in sections 8(1)–(3) of the Labour Code. The Court stipulates that freedom of expression may be subject to stricter limitations in the world of work.

The Constitutional Court has identified the factors that courts must consider when assessing the restriction of workers’ freedom of expression, in addition to the general necessity and proportionality test:

- (1) the public or professional relevance of the statement,
- (2) the factual basis of the statement and its evaluative value judgments,
- (3) the harm caused by the statement and its negative impact on the employer’s reputation,
- (4) the good faith of the employee exercising freedom of expression,
- (5) the severity of the disciplinary consequence imposed by the employer.

From the case law of both courts, it is evident that the provisions set out in the Labour Code are consistent with the possibility of restricting the fundamental right. The courts have also recognized that freedom of expression manifests differently in the context of employment relationships due to their unique nature. Employment is a trust-based legal relationship, typically involving long-term cooperation between the parties. Employers and workers form a shared interest in dealings with external parties, in which the employer may find itself in a vulnerable position. During employment, the worker may gain access to information critical to the functioning of the employment relationship, which, if misused, could harm the employer’s economic interests. To protect these interests, section 8(1) of the Labour Code stipulates that during the employment relationship the worker – unless so authorized by the relevant legislation – shall not engage in any conduct by which to jeopardize the legitimate economic interests of the employer. This restriction is limited to the duration of the employment relationship. However, under section 8(2) of the Labour Code, outside their paid working hours, the worker must also refrain from any conduct – stemming from the worker’s job or position in the employer’s hierarchy – that directly and factually has the potential to damage the employer’s reputation, legitimate economic interest or the intended purpose of the employment relationship. This rule is also not unlimited. To ensure proportionality and a legitimate aim, the worker’s conduct must be assessed based on their job or position in the employer’s hierarchy, and the conduct must directly and factually be capable of harming the employer’s reputation, legitimate economic interest or the intended purpose of the employment relationship. Additionally, as a further guarantee protecting the worker, the employer is required to inform the worker in writing about the restriction in advance.

Section 8(3) of the Labour Code explicitly refers to the restriction of the exercise of the right to freedom of expression. However, the provision also sets out the legitimate grounds for such a restriction, in the interest of the protection of certain rights. Judicial practice confirms that fundamental rights cannot be exercised to the detriment of other rights, and the

referenced subsection identifies the rights that may conflict with freedom of expression in employment relationships, namely the employer's reputation, and legitimate economic and organizational interests. Furthermore, the provision clarifies that expression of opinion is not allowed only when it is seriously offensive and jeopardizes the protection of the above rights, hence the proportionality test.

In an employment relationship, the worker performs work in the interest of the employer, considering the employer's economic interests. Consequently, the worker's autonomy is inevitably diminished during the fulfilment of employment duties.

This is most evident in the fact that the employer decides the work schedules, thereby affecting the worker's right to rest. Section 9(2) of the Labour Code thus allows for the restriction of the worker's personal rights only where strictly necessary for reasons directly related to the intended purpose of the employment relationship and where proportionate for the achievement of the objective. Therefore, the legal regulation does not grant the employer unlimited rights to restrictions. In order to protect the worker's interests, the employer is required to inform the worker in advance and in writing about the manner, conditions and expected duration of the restriction of personal rights, as well as the circumstances justifying its necessity and proportionality.

The current regulation respects the fact that personal rights may only be restricted in exceptional cases. Therefore, section 9(3) of the Labour Code stipulates that a worker may not waive their personal rights in a general and advance manner, and any legal statement concerned with the personal rights is only valid if made in writing.

In summary, the referred provisions of the Labour Code comply with the criteria (necessity-proportionality test, cases of permissible restrictions on freedom of expression) established by the European Court of Human Rights – and adopted by the Hungarian Constitutional Court – which allow for the limitation of a fundamental right within a clear and appropriate framework. The current regulation ensures the rights of both employers and workers by considering the unique nature of employment relationships.

Registration of Trade Unions (Article 2)

According to section 69 of Act CLXXXI of 2011 on the court registration of civil organizations and the related procedural rules (hereinafter: Cnytv.), the provisions of this Act shall apply to trade unions unless another law governing the organization provides otherwise. Since no other law regulates the registration of trade unions, the rules applicable to associations – of which trade unions are a special form – shall govern their registration.

Under section 34(1) of the Cnytv., a simplified procedure is available (where the court must decide on the registration within 15 days), if the founding document submitted is based on a standard template as defined in legislation. These templates are provided by Decree No. 4/2017 (IV.3.) of the Minister of Justice on the standard statutes to be used in simplified registration and amendment procedures of civil organizations and sports associations. These templates may be used not only for initial registration but also for subsequent filings of amendments.

The main rules on organizational and operational structures are set out in Act V of 2013 on the Civil Code (hereinafter: Ptk.). According to these rules, it is sufficient to include only the basic data of the association in its statutes. The court only reviews the minimum statutory requirements, which means no request for correction may be issued due to minor administrative deficiencies.

The Cnytv. also establishes that during the amendment registration procedure of an association, the court only examines the documents relevant to the specific amendment. Consequently, the court may not raise objections regarding parts of the statutes not affected by the modification.

Under the current legislation (section 2(2) of the Cnytv. and section 3:63 of the Civil Code), civil organizations – including trade unions – are required to provide proof of entitlement to use the registered office as a condition for registration.

According to section 21(1a) of the Cnytv., proof of entitlement to use the registered office must include a declaration – contained in at least a private document with full evidentiary force – by the property owner or lawful user authorized to grant further use, consenting to the use of the property as the organization's registered headquarters. If the organization itself owns the property, a copy of the ownership certificate must be attached to the application.

The requirement for the inclusion of the company's name in the official name of the association cannot be derived from legislation. Section 4(1) of the Cnytv. explicitly states that the trade union (as a specific form of association) is not required to include reference to the type or form of association in its name. Furthermore, a trade union may be established and may operate under a name that includes other expressions indicating the exercise of the right of association.

As noted in the Committee of Expert's observations, between 1 June 2017 and 31 May 2021 a total of 1,149 trade unions were registered and eight registration applications were rejected. The detailed data for the period 2021–25 is currently being collected. Once available, it will be submitted to the Committee.

The Government takes note of the views expressed by the Committee of Experts and the request to the Government to take the necessary measures to effectively address in practice the alleged obstacles to registration. At the same time, we note that apart from the previous observations submitted by the Workers' group – indicating that the legal requirements for trade union registration may hinder the implementation of Article 2 of the Convention – the Government is currently not aware of any specific cases or legal practice in which the existing legal framework has effectively prevented the registration of any particular trade union. Furthermore, we wish to highlight that the VKF held nine meetings in 2022, ten in 2023 and nine in 2024. These sessions provided an opportunity for the Workers' group to raise any such concerns.

The right of workers' organizations to organize their administration (Article 3)

The establishment and operation of trade unions are regulated by Act CLXXV of 2011 on the right of association, public benefit status and the operation and support of civil organizations (hereinafter: Ectv.), as well as Act V of 2013 on the Civil Code.

According to section 15(1) of the Ectv., the registered data of trade unions is public. However, pursuant to section 15(3), the membership registry is not public due to the protection of personal rights. Within the framework of legality supervision proceedings, the prosecutor's office is entitled to full access to documents [Ectv. section 15(4)]. As in the case of any other association, the prosecutor has the right to initiate legal proceedings against a trade union where a law has been violated and the corresponding claim is based on the protection of public interest. There is deemed to be a violation of public interest if the prosecutor identifies an error in the registry data in the motion. However, a deficiency or error in the founding document

that does not affect registry data does not constitute a violation of public interest and therefore does not provide grounds for the prosecutor to file a claim.

Under Article 29(1) of Hungary's Fundamental Law, the prosecutor's office acts to protect the public interest and ensures that unlawful conditions are remedied. As defined in section 1(2) of Act CLXIII of 2011 on the prosecutor's office, the prosecutor's office contributes to ensuring compliance with laws and, in cases and procedures defined by law, acts to uphold legality when a violation occurs.

The powers of the prosecutor's office do not imply general supervisory or review authority, nor operational control over the activities of trade unions. The prosecutor is only entitled to act if there is a clear violation of the law and, even in such a case, action is taken through court proceedings, not by direct administrative measures.

The Government emphasizes that the alleged practices referred to in the Committee of Experts' comments do not correspond to the applicable Hungarian legal framework, and they do not form part of the lawful prosecutorial oversight. In the event of unlawful prosecutorial action, legal remedies are available. Specific legal disputes can be initiated in response to specific violations.

In the coming period, the Government intends to engage in consultations with the Prosecutor General's Office of Hungary regarding the practices affecting trade unions, as raised by the Workers' group.

Deduction of union membership fee

In 2023 in the VKF, the parties discussed the initiative related to the deduction of trade union membership fees on two occasions. During the negotiations, the relevant Government representatives emphasized that the primary objective of the related legislative amendments was to reduce administrative burdens on employers. According to section 1 of Act XXIX of 1991 on the voluntary payment of trade union membership fees by employees, the general rule is that the employer – with the exception of cases specified by law – is obliged, upon the worker's written request, to deduct the trade union or other representative body membership fee from the worker's wages and to transfer the specified amount to the trade union or other workers' representation body indicated by the worker. According to the Government, the provisions concerning trade union membership fees in the status laws affecting certain public sectors do not disadvantage the workers and do not adversely affect the functioning of trade unions.

The right of workers' organizations to organize their activities

According to section 4(3) of the Strike Act, the extent and conditions of minimum ("sufficient") services may be determined by law, and this is indeed the case in sectors providing the most essential public services. The general framework provisions of the Strike Act only apply in the absence of specific legal regulations, in which case the parties must reach an agreement on the extent and conditions of minimum service during the mandatory pre-strike conciliation process.

With regard to amendments to the Strike Act, in recent years consultations have taken place on several occasions within the framework of the VKF. Within the Monitoring Committee of the VKF, thematic working groups were established. Among these, the working group for the amendment of the Strike Act held its first meeting on 19 March 2015, followed by several further meetings later that year.

With regard to the determination of minimum services, the Government has consistently upheld the position that guidance must come from the joint position of the social partners, and it attaches particular importance to the development of a unified position on the part of the trade unions.

To date, however, no joint proposal has been formulated by the social partners regarding minimum (i.e. "sufficient") services and therefore the issue of amending the Strike Act has not yet been placed on the agenda following the COVID-19 pandemic.