

Committee on the Application of Standards

Date: 16 May 2022

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 16 May 2022.

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

Hungary

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

As Hungary explained in 2021–22, during the examination of Case No. 3399 before the ILO Committee on Freedom of Association, the implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) were priority considerations in the development of the national legislation under examination.

Hungarian national regulatory frameworks for workers' collective rights are in line with international labour standards. Article VIII(2) and (5) of the Fundamental Law of Hungary guarantees freedom of association, and its article XVII declares the right to collective bargaining and the right to strike. Act VII of 1989 on strikes contains the detailed guarantee regulations accordingly. However, according to its provisions on unlawful strikes, there is no right to strike in certain public administrative bodies performing public service functions. Act C of 2020 on the Healthcare Service Relationship (hereinafter: the Healthcare Service Relationship Act) regulates in line with these provisions, which is also permitted by the ILO Conventions. (It should be noted here that under article 298(4) of Act I of 2012 on the Labour Code, Hungary's general labour law code, a law may – with regard to sectoral and professional specificities – deviate from the provisions of the Labour Code, and this is also the basis for the establishment of rules that differ from the general rules, such as article 15(10) of the Healthcare Service Relationship Act for health care providers subject to the Healthcare Service Relationship Act.)

As it has been explained earlier, the sectoral legislation is in line with the Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, which, inter alia, provides guidance for a more precise interpretation of Article 6 of ILO Convention No. 98 concerning the application of the principles of the right to organize and to bargain collectively, and which, in the case of the health sector, primarily considers paragraph 576 as a guide.

On this basis, the right to strike may be restricted or prohibited in the public service for public servants exercising authority in the name of the State; or in essential services in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population). ILO Convention No. 98, Article 6, states that “This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.”

Article 15(1) of the Healthcare Service Relationship Act creates the possibility of reconciling the interests of healthcare providers and persons with a healthcare service relationship, negotiating the settlement of disputes and reaching appropriate agreements – taking into account the principle of safe healthcare provision – with the participation of the Government, the national sectoral interest representation organizations and the national employee interest representation organizations of persons with a healthcare service relationship in a negotiating group of the Health Service Interest Reconciliation Forum (hereinafter referred to as HSIRF). The competence of the HSIRF covers matters relating to the living and working conditions and terms and conditions of employment of persons with a healthcare service relationship working in the health sector.

In Hungary, collective agreements in the health sector used to be very heterogeneous. By drafting the Healthcare Service Relationship Act, the legislator’s aim was, among others, to create a transparent, uniform system for healthcare workers and providers in state and municipal healthcare institutions by establishing a healthcare service relationship. For this reason, the heterogeneous collective agreements were replaced by a regulation at the level of legislation, as the implementing decree of the Healthcare Service Relationship Act incorporated the contents of the sectoral collective agreement for most hospitals. Chapter 6 of Government Decree 528/2020 (XI. 28.) implementing Act C of 2020 on the Health Service Relationship – “Specific rules concerning the working time of a person in a healthcare service relationship” – contains the provisions of the multi-employer collective agreement concluded by the National Healthcare Service Centre with the Democratic Trade Union of Social and Healthcare Workers in Hungary, thus facilitating the guaranteed enforceability of provisions favourable to healthcare workers and healthcare providers in a uniform manner, rather than varying from one institution to another.

The Government of Hungary continues to attach importance to and promote the representation of the interests of healthcare providers and healthcare workers, and will continue to provide opportunities for the representation of healthcare workers through the interest reconciliation forums with the involvement of trade unions.

The approach set out in the Strategic Partnership Agreement between the Ministry of Human Capacities, the Democratic Trade Union of Social and Healthcare Workers in Hungary and the Independent Trade Union of Ambulance Workers serves as a guideline for negotiations and the further development of an appropriate legislative environment.

The Government of Hungary – upholding the commitments made in January 2022 in response to the recommendations of the ILO Committee on Freedom of Association – is currently examining the possible directions of the revision of the existing legislation and will continue to ensure that the principle of consultation with the relevant workers’ and employers’ representative bodies is fully respected in any further planned measures.

It is important to note that there have been no changes to the legislation – particularly in view of the parliamentary elections in April this year, due to which the legislative process has

been suspended – since the recommendations were made. Nevertheless, the Government will keep the ILO informed of progress in accordance with the recommendations.