PERIODICA POLYTECHNICA SER. SOC. MAN. SCI. VOL. 6, NO. 2, PP. 93-104 (1998)

INDUSTRIAL CONFLICTS IN HUNGARY

András KRÉMER

Department of Sociology
Technical University of Budapest
H-1521 Budapest, Hungary

Received: Dec. 10, 1998

Abstract

Introduction to Hungarian industrial relations, concerning with labor disputes, and establishment of Hungarian Labour Mediation and Arbitration Service. The reasons of the low number of mediation and arbitration cases.

1. Social Aspects of Labour Conflicts (Mapping the Mediation Problem)

1.1. Culture, Conflicts, Competitions

When we speak about the conflicts in the world of labour, we have to know:

- that it is not a pure professional question, or an existing technique, which functions in other fields of our society, which we can apply or adapt to labour affairs.
- At the same time, when we are speaking about labour conflicts, we are speaking about the general culture, skills, routines, practices of disputes, interest arguments, etc.
- In our previous society the leaders looked at it as a rational, planned, bureaucratic firm, where conflicts are bad, and should be evaded.
- If nevertheless there was an escalation of any kind of conflicts, it was regularly handled by a "position-based" negotiation.

The most important characteristics of this type of negotiation are:

- thinking about limited supply of goods,
- the actors concentrate on their positions (power),
- the participants consider their opponents as enemies,
- concession is a sign of weakness,
- there is only one right solution, (that is mine),
- persons are considered as problems.

Since the social transition we have learned to live with disputes between equal partners in political, local governmental, environmental, NGO, social security questions, etc.

So we are absolutely full of conflicts. That is normal, because the market economy, and democracy naturally operate through resolving everyday disputes and conflicts. A Conflict is said to be a potential to solve the problems. But just now, we began to learn our possible roles in these situations. Already we have some institutions, like the constitutional court, the arbitration court (I mean when the parties voluntarily turn to this court, giving up their right to appeal, which is useful in economic disputes, between firms), but we don't have the skills, and experience how to do it.

I'd like to emphasize that I believe that in our East European countries the labour disputes form a field unseparable that can't be separated from the general social question of behaviours in disputes, in negotiations.

1.2. Transition, Economic Crisis

How can we describe, characterize the transition, the social change?

The economic crisis began in the late 70s, but the transformations of the last 7–8 years were dramatic. We lost most of our former markets, we had to change our market orientations.

The rate of employment radically decreased, while the unemployment rate is at the same level, or also decreased a bit. It seems to be a contradiction, but both statements are true. It means that an increasing proportion of people in the active age (that is around 30%) dropped out from the labour market.

In their views on the future number of conflicts, experts give quite different estimations. This is partly due to the use of different definitions, partly due to the fact that it is difficult to tell whether in a consolidating economy – as I hope one can call the Hungarian economy in the near future – one should expect an increase or a decrease in the number of conflicts. In any case, it has surprised many people that in an economy characterized by quick transformations, falling apart and reorganizing itself, so few full-fledged conflicts have been registered during the transitional stage.

At the same time it is clear to everybody that this period has created many deep tensions in the world of labour. In my personal opinion the large reorganization almost felt like a war situation, a state of emergency, which does not really promote carefully considered, civilized long run solutions, but generated short-term, quick, everyday clashes.

1.3. Partners

Prerequisites for interest-based negotiations are:

- clear identification of the parties,
- mutual dependence of interests,
- willingness to come to an agreement,
- competence to make decisions,
- to allow compromises.

This tendency, described above, is considerably strengthened by the fact that the position of the partners (employers and employees) is terribly uncertain. I come back to this later. For the moment let me point out that, on the one hand, one could clearly notice the massive uncertainty, the incredibly limited economic and existential security of the employees (strengthened by the fact that in many families both spouses are at the mercy of others), which weakens solidarity and the willingness to participate in collective steps, and strengthens individual interest-assertion strategies (maybe not so much conscious strategies as hopes), manifesting themselves in the 'if I keep quiet I might escape and not tumble into the stream' formula. Partly thanks to this a considerable part of the labour conflicts appear in the form of juridical disputes, about 20000 cases a year.

On the other hand, the management is confronted with a similar uncertainty when it is not sure at all who will be the owner tomorrow (privatization), when company strategies are short form one year or even less, when goals and targets change quickly ('upgrading' before a selling, improvement of the indicators in the books, 'survival diets' or change of profile, only rarely increase of production or growth in efficiency). Amidst this quickly changing structure of terms, there is no time for the management to prove itself, and fluctuation is immense. Commitment and stability of the direction is also weakened because of a huge supply of nice offers (better than the current), offers which a manager will not let go by easily. Thus the insecurity and transitional character do not foster interests in long-term agreements on the management side either, and often the required competence and personal guarantees to establish settlements for the longer run are lacking anyway.

Under these circumstances the management often rushes to the owner when relations become tense, for a decision, for support or confirmation, to safeguard its position, or to receive a sign of loyalty. The other side also is perceiving this, and because of that often does not even accept the management as negotiation partner, although in the juridical sense there is no doubt that are the employers, are the ones to negotiate with. For the same reason, as mentioned earlier, the aim of employees' actions is to gaine general publicity, their instrument is a demonstration to be seen by outsiders, while the solution is expected from the owner, the State, the State Property Agency, or the law-makers, instead of the employer. The

employee's sense this uncertainty of the management and they often don't accept the management as the negotiation partner.

This situation makes it dubious whether stabilization, the development of a more orderly structure of ownership on the longer run, will favour an increase of the number of conflicts or rather lead to a decrease. In my opinion it is likely to limit the tension, the insecurity, and the hidden, suppressed conflicts among and between both sides and increase the value of long-term agreements, while it may at the same time increase the number of real negotiations and with this the number of disputes that aim at a genuine solution and during which one resorts to external assistance.

All this means that our topic not only concerns cultural, behavioural questions, but at the same time it is a question related to economic factors.

1.4. Legal Framework of Labour Conflicts

Legal background of industrial relations.

High production of legislation, more than hundred new acts per year, many modifications.

The industrial relations now are essentially based on three laws. Act 22/1992 on the Labour Code takes effect in the competitive sector, but also serves as a general 'background' regulation for the other sectors of economy. It covers all basic labour rights. Labour disputes are also regulated in LC. The other law is the Act 23/1992 on the Legal Status of Civil Servants, the third law involves the Act 33/1992 on the Legal Status of Public Employees.

1.5. Conciliation Council

The macro-level conciliation of interests in Hungary goes back to some ten years; the National Conciliation Council (NCC) was established in December 1988. This is a tripartite institution, which functioned as one of the most important institutions during the period of societal transformation. The decisional competence of the council concerned the establishment of minimum wages, but it also played a major opinion-forming role in the development of social dialogue with regard to transition processes of national importance. Recently, with the establishment of the service (MKDSZ), the sphere of authority related to decisions concerning the service also belongs to the NCC; these decisions are also made with complete consensus. The three parts consist of the employers, the employees and the State. The employers' and employees' sides were formed by the national representative bodies existing at the time when the NCC was established, and basically these or their successors are still its determining organizations. One of the

fundamental features of the way the NCC operates is its decision by consensus, which means that the dissentment of one of the sides can veto a given decision. The experience of the last nine years makes clear that the sides regard each other as fully legitimate, and have significantly contributed to their mutual and joint legitimation. Although in the past couple of years that were voices heard that an extension of the sides may be necessary, the council, partly applying the self-regulating decision model mentioned, has not changed fundamentally. At present the employees' side is formed by six labour union confederations, the side of the employers by nine organizations.

2. Labour Conflicts, Statistics. Basic Informations

2.1. Statistics

Hungarian data on labour disputes can be found in several sources, which show quite considerable differences. There is no obligation to report labour conflicts, the definitions of conflict vary, and a large proportion of them remains concealed. The Hungarian Labour Mediation and Arbitration Service (MKDSZ) collects data on the topic since it was established. The method is to register all conflicts which come to their knowledge, and which get publicity in one way or another. This seems to be a rather good method, as the aim of most actions initiated during labour conflicts is precisely to get attention and reach the public. (we will return to the reasons for this later). The data from the MKDSZ concern the period of its operation, July 1st, 1996 – June 1st, 1997. They do, of course, not contain all cases of dispute between employers and employees, but merely show how many conflicts received some kind of publicity.

2.2. Number of Strikes

In the period mentioned above:

- strike threats: 9
- warning strike: 1 (in Pécs)
- general strike: 4 (3 in Szekszárd, 1 in Szolnok)

2.3. Number of Participants

We can only give our own estimates of the cases mentioned.

- in the warning strike: 500 people
- in the general strikes: 1800 to 2000 participants

2.4. Number of Workdays Dropped Out

- 8 days for the strikes
- the warning strike lasted 2 hours

2.5. Main Causes of the Conflicts Mentioned

- wages and allowances
- staff reduction and dismissals
- causes related to unsettled labour relations

Table 1. Strikes, participants and hours dropped out according to the Hungarian Central Statistical Office:

Year	Number of strikes	Number of participants	Hours dropped out
1991	3	24.148	75.622
1992	4	1.010	33.360
1993	5	2.574	41.558
1994	4	31.529	229.176
1995	7	172.048	1.707.979
1996	8	4.491	19.000

Source: Hungarian Statistical Handbook 1995, 1996. Budapest: Central Statistical Office, 1995, 1996.

3. MKDSZ (Labour Mediation and Arbitration Service)

Some of the most important parts of operation rules:

V. The Duties of the Mediator/Arbitrator

V.A/ The mission of the mediator/arbitrator

The fundamental purpose of the operation of the mediator/arbitrator is to reinstate the confidence of the parties in the dispute with each other, to resolve the conflict situation, to save or restore the peace of the given workplace, and to enhance the culture of industrial relations. Accordingly,

he/she should not give value judgements of the proposals that have emerged or take sides with a solution that he/she considers appropriate.

V.B./ The general tasks of the mediator/arbitrator

1) To study the written documents prepared so far.
2) To agree with the parties in the basic rules of procedure and to take stock of the expectations of the parties.
3) To enter a distinct discussion with each party in dispute.
4) For next to sum up the facts for himself/herself, to outline the state of affairs and to determine his/her own duties in the interest of attaining the purpose specified.
5) 'Commuting' between the two parties, to maintain the connection and communication between the parties in dispute.
6) To raise the problematic issues one by one, to help interpret the problem, to formulate the possible counter-arguments and priorities of the partner and to strive to dissolve misunderstandings due to the incorrect negotiation and communication practices.
7) As far as he/she sees any chances for a turnover by means of new approaches or proposals, to initiate the continuance of direct negotiations.
8) Based on the experience gained in the course of negotiations, to direct the attention of the leaders of each negotiation group to the potential obstacles of an effective negotiation (e.g. the composition of the negotiation groups, the mistaken negotiation techniques, etc.) and, if needed, to propose further methods in the interest of more successful discussions, etc.
9) To take care to make the parties feel they are treated as equal partners. Therefore to pay identical attention to and to spend identical energy and time on both parties.
10) It is not the mediator/arbitrator but the parties that must appear in public. The mediator/arbitrator can provide the media with information on the actual affair on special request or commission by both parties. However, even in such a case he/she cannot provide information either on the attitude of the parties in the course of the mediation process, nor on the main points of the negotiations, nor on issues in relation to which any of the parties claim for secrecy.
11) To take part in the direct negotiations, to sit as president if invited, and to help maintain the dialogue until an agreement would be reached. If invited, to participate in formulating the document of agreement.

V.C/ Mediation specific tasks

1. Further to those listed under point B the mediator is obliged to take active part in solving the conflict. In the interest of this he should work out a proposal – with the involvement of experts, if deemed necessary – which would be offered for discussion to both the employers and the employees.
2. The parties in dispute are obliged to consider the proposals worked out by the mediator but they are not obliged to accept these proposals. The parties are free to decide to accept or reject the proposals.

V.D/ Arbitration specific tasks

The arbitrator, as authorised by the Labour Code (Mt), outlines the state of affairs and as far as he/she can be considered clearly competent in the debated item – after studying the documents and hearing the parties, experts, and witnesses if requested by those in dispute – makes a final decision. At the same time the decision of the arbitrator – in the case of obligatory arbitration – is qualified as a collective agreement, thus giving way to a legal labour dispute accordingly.

The guaranteed rules of procedure of arbitration:

a) the arbitrative negotiation – unless requested otherwise by the parties – is public,
b) the arbitrator announces his decision made after the negotiation in public, even if the parties had previously requested for a hearing in camera,
c) during the arbitration process each party may entrust a representative with enforcing their interests.

The MKDSZ has a narrow terrain to apply Alternative Dispute Resolution (ADR) only collective interest disputes belong to LMAS.

Few and weak parties, few collective agreements

Collective negotiations can only be talked of at companies where a union or a works council operates, medium-sized and large companies. But even among these companies there is often nobody to represent the employees' interests. Collective agreements do of course somewhere exist, but frequently they are not arranged even at companies where this would be possible. The signment of collective agreements is regulated by the Labour Code.

There are only few collective agreements at the company or sector level. In Hungary, industrial relations within the workplace are characterized by low standards. There is practically no representation of employee interests at small and medium-sized companies, in certain areas or professions unions have almost completely ceased to exist. Naturally there are no collective agreements in the absence of unions and could not even be, because according to current regulations only the unions can conclude such contracts with the employer. Interest disputes do not easily develop in these cases, as the employer does not have a partner with whom to develop and sustain collective labour relations.

The lack of employee interest representation at small and medium-sized companies just mentioned is related to a special labour relation in this sphere, a peculiar result of economic regulation: In order to decrease social insurance costs, the employer contracts employees as entrepreneurs, who receive their allowances on presenting a bill. This relation excludes the employee from its rights as employee, as in the juridical sense he/she is self-employed, even though de facto employee in sociological sense. This practice further limits the development of normal labour relations, and the applicability of conflict management procedures.

Before the change of regime, Labour Decision Councils were established in many companies, which settled an important part of the conflicts internally, with the co-operation of employer and employees. With the transition these councils ceased to exist, and the conflicts to be solved there mainly passed over to the Labour Courts.

Conflict management at the workplace

At those companies where a union or works council operates (only a small proportion), one often tries to solve occurring conflicts in a forum established with the management of the company, sometimes bringing in higher-level union leaders. In a certain part of the conflicts (collective interest disputes) the MKDSZ is licensed to intervene, to contribute to a settlement of the conflict as a third party. As a final means the employees can have recourse to the union rights secured by law (demonstration, establishment of a strike committee, warning strike, general strike). One special case, quite common in the Hungarian economy in the recent past, arises when the conflicts coincide with a radical deterioration of the economic position of the company, sometimes even with a threat of bankruptcy. In these cases it is a common tactic of the unions to try and achieve the liquidation of the company, for the following reason: In the course of a liquidation the employees are entitled to a lump-sum settlement, and generally have hopes that someone will buy the company after the liquidation. Then the company continues its operation and with new labour contracts employs the current workers.

This expectation has, however, rarely come true. The liquidation efforts of the union form an important obstacle for reorganization without liquidation, liquidation becomes a fact through a self-fulfilling prophecy, and the liquidator does not manage to find a client that would buy the company with its original activities, but sells the company as an object, and its production stops. In such cases a longer-term strategy, more co-operative with the management, might lead to better results for the employees as well.

4. Development of Resolution, Prevention of Conflict

One may regard the existence and operation of the MKDSZ as one of the strong points in Hungary, as it forms a kind of resource for the settlement of labour conflicts, not only through the existence of the structure itself, its status and its procedural regulations, but also through the 98 persons that are its registered members. Further details on the operation of the MKDSZ will be given in a separate chapter. In my opinion one should not expect that the conflict management techniques applied by this service will get to play some role in the conciliation of interests at the medium and national level somewhere in the near future. Referring to the aforementioned we could count on a spread of conflict management by way of negotiation, and through this on an increasing demand for intervention by the service.

One of the most important developments are the expansion of alternative methods of conflict management in the sphere of labour relations. Possible steps in this direction are the following:

- The increase of collective agreements at company and branch sector level. (Of course, this cannot be forced by law, any collective agreement can only be based on the voluntary willingness of both sides. One could imagine, however, a system in which companies that signed a collective agreement get a certain advantage in the awarding of state subsidies, as the use of this kind of support is not compulsory either, but by setting priorities of this kind the government may stimulate the conclusion of collective agreements.
- The establishment of a registration system for collective agreements may also have a significant effect; experts could work out the possible solutions, and the registration could give the organization the opportunity to offer its services before the contracts expire for the renewal negotiations.
- Expansion of the activities of the MKDSZ, making its mediation and arbitration experience more well-known, and giving publicity to positive examples. Its activities could be extended by making it possible to settle individual juridical conflicts with the co-operation of the service and make use of preventive mediation. In my opinion the expansion of activities in these areas would not necessarily be dependent

on the state budget; sides that realize the reduction of expenses such solutions bring could use the service at their own costs. Commercial organizations to this avail are basically non-existing at present.

- From among the members of the service one could further establish a team that through its educational activities can come into contact with the companies (employers, employees, and their organizations) and could play with their training activities an important role in the spread of conflict prevention methods. In this area significant personal capacities can be found within the service, several members can rely on an educational teaching background, and many of them have teaching and training experience in the field of conflict prevention as well.

Some other possibilities for development lie outside the sphere of labour relations, but could be none-the-less help in solving conflicts evolving within the economy.

- A demand for the application of conflict management techniques has already appeared for instance in relation to conflicts between owners.
- The settlement of conflicts between companies before arbitration courts has certain precedents, and this could be further expanded with the application of Alternative Dispute Resolution techniques.

Last but not least, outside the world of labour there are certain fields which are to a very high degree ripe for the application of ADR techniques and where demands have been drawn up, but at present there is no organization in Hungary which could offer this kind of knowledge and services. We think here of fields like disputes over environmental issues, conflicts between local authorities, conflicts arising in relation to regional or local development projects, in which the actors are formed by the local authorities, civil organizations, investors, inhabitants, etc. It seems that today there is no chance to expand the activities of MKDSZ toward this direction, even though it is clear to everyone that the applied conflict management techniques and know-how are fully comparable. A certain paradox can be noticed here: while in the sphere of labour the institutions of conflict management are better developed than the demands for it, there are no institution answering (meeting) the demands in the fields and circumstances mentioned above.

Finally let me conclude my paper with a personal example.

At present I work as a mediator in a conflict which has occurred in Budapest between an investor and the inhabitants. The investor wants to construct a petrol station on one of the main roads in the city in such a way that the local population would agree with it. This wish was generated by the realization that a possible later objection by the population, contesting the building permit by legal means, would retard the materialization of the investment even if the legal forum would finally decide in favour of the investor. This

delay would go with significant costs for the investor, and in the worst case may mean that he loses the assignment and the investment will be cancelled.

Because of all this the investor not only takes responsibility for all financial and organizational aspects, but is also willing to compensate the population to a considerable degree. The size of this compensation might finally mean that, as a result of the additional investment to improve the environment, the living conditions of the population do not deteriorate and might even slightly improve. The petrol station would occupy an area in an uncared-for park in front of the appartment buildings, and this is the concern of the people. Through intensive improvement (maintenance, irrigation, planting) the environmental damage may be limited, or the conditions even improved.

The local population is already sufferes because of the traffic on the main road, the air pollution and the noise level. That is why there are strong emotions opposing every project that would occupy even one meter of green area.

The development of the dialogue is complicated by the fact that the investor wants to buy the area from the local government, which also has to issue the building permission. The local government wants to minimize the dissatisfaction of the inhabitants (coming elections), and therefore exercises pressure on the investor to conclude to an agreement with the population. The inhabitants are not sure who is their negotiation partner: the investor or the local authorities. The local government is responsible for the building permission, the investor for the final realization of the plan, for adjustments therein, and for the agreement concerning compensations.

The dispute is still on going at the moment, but with the help of conflict management techniques and ADR methods there is a hope to reach an agreement. The techniques applied are practically identical to those used in the course of labour conflicts.

However, my personal involvement in the case was merely a question of coincidence: as a sociologist I co-operated earlier in the social impact assesment of the general destination plan of the local government. Following an accidental conversation my earlier client gave my name and phone number to the investor, who until then did not even know about the existence of such techniques.