

Name of the country: **Hungary**

Transposition Act = Consolidated legislation - 2003 évi XXI. Törvény

1. Presence of legally based administrative or judicial conflict solving procedures for:

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)		Yes		
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement	No			Section 23 A of the EWC act
D	EWC based on subsidiary requirements		Yes		

2. Litigation on different sets of rights: presence of national provisions

		No	Yes	Which authority (e.g., court) is competent ¹
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB		Yes, including disputes over creation of EWC ² → including/possibly declare an EWC de iure in case of non reply by management to request for SNB or negotiations longer than 3 years?	
B	Operation of the EWC:breaches and compliance with the law (statutes), agreement or Subsidiary Requirements			
C	Challenging management on the use of confidentiality and secrecy/withholding information)		Yes ³	
E	Individual rights of the SNB/EWC members under national EWC legislation			
F	(Others to be filled in)			

3. Capacity to act in court

¹ Material and geographical competence.

² Section 23 para 1 of the XXI 2003 law on the establishment of a European Works Council and a procedure in informing and consulting employees “the court shall decide in a non-litigious procedure within fifteen days”.

³ Article 19.2 (2003)



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		Brief explanation/ differences for 2A-2F above)
1	Who/which body can start a judicial procedure?	
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	EWCs have court capacity (legal capacity to act in courts)
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	na
5	Who represents the EWC in law?	
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	

4. Starting a procedure and timelines

		Brief explanation
1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	
1.a	Does the law contain any requirements on the internal rules concerning question 1?	
2	How does one file a case in court? (Who, format, steps)	
3	What is the deadline to start a judicial procedure?	
4	Are there other relevant deadlines in the judicial procedure?	
5	What is the role of out of court settlements once a case has been filed?	Certain courts make mediation available to parties free of charge for on-going proceedings. Detailed rules and a list of courts is available on the central website of the Hungarian courts. (http://birosag.hu/engine.aspx?page=Birosag_showcontent&content=Birosagi_kozvetites)
6	How long does a judicial procedure typically take?	
7	Is an injunction or a summary procedure possible?	Yes, typically within 14-15 days.

5. Costs

	Brief explanation



1	What are the court fees for a judicial procedure?	
2	Is legal representation by a lawyer required in a judicial procedure?	
3	Who pays the costs for:	Employer, general clause.
	- Legal expert	At least one expert (number not specified)
	- Court fees	<ul style="list-style-type: none"> The EWC members shall have the means required to exercise the rights provided to the EWC, including the commencement of legal disputes relating to the violation of the rights to information and consultation of employees <p>The central management shall ensure the necessary and justified expenses of the activities of the EWC</p>
	- Other costs (travel/interpretation)	
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?	

6. Sanctions

		Brief explanation
	How is a breach of law classified?	Administrative offence
1	What are the sanctions for breaches of EWC laws?	<p>No specific sanctions (apart from a 'fine') defined in the transposition of the EWC directives acts (the act to which the EWC act was referring to was repealed in 2012⁴ or in the Labour Code (Simon 2007).</p> <p>In Hungary the acts implementing the EWC Directives (of 2003 and the 2011 amendment) stipulate fines for breaches of EWC regulations, but set no concrete amounts. Reportedly, neither are the amounts of fines set by the Hungarian Labour Code⁵</p> <p>However, sanctions can be imposed/defined by the Labour Inspectorate (Vega and Robert 2013) (??? Confirm).</p>
2	Can the court rule to stop or reverse the companies' decision-making?	

⁴ European Commission 2018: 57.

⁵ Simon (2007): 'Trade unions also have workplace information and consultation rights. (...) As noted above, in practice, unions have had to rely on the courts to enforce these rights, but the Labour Code does not cite any possibility of a sanction.'



3	Whom should fines be paid to?	
4	Can a member of management be held personally liable (personal vs. corporate liability)	
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	

7. Out of court settlements

		Brief explanation
1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	<p>Possible⁶, but Act LV of 2002 on mediation covers civil litigation, but excludes mediation in libel proceedings, administrative proceedings, guardianship proceedings, proceedings on the termination of parental responsibility, enforcement proceedings, procedures establishing paternity or ancestry, and constitutional appeals.⁷</p> <p>Among the non-governmental organisations active in the area of mediation are:</p> <p>The National Mediation Association (Országos Mediációs Egyesület); and the Mediation and Legal Coordination Department of the Budapest Chamber of Commerce (Budapesti Kereskedelmi és Iparkamara Mediációs és Jogi Koordinációs Osztálya).⁸</p> <p>Recourse to mediation is voluntary, but has certain advantages in relation to the Act on Duties (az illetékekről szóló törvény) and the Code of Civil Procedure (polgári perrendtartás).</p> <p>If the parties participate in mediation after the first hearing and the agreement reached is ratified by the presiding judge only half of the applicable duties are payable. Even the fee payable to the mediator + VAT (HÉA) (but not more than 50.000 forints) may be deducted from this already reduced amount. The only restriction is that the final amount of duty may not be less than 30% of the original</p>

⁶ Section 291 292 293 of Hungarian Labour Code

⁷ https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?HUNGARY&member=1

⁸ https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?HUNGARY&member=1



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		<p>amount. The reduction does not apply if in a certain case mediation is not permitted by the law.</p> <p>If the parties participate in mediation before civil proceedings, then the amount of court duty payable is reduced by the mediator's fee + VAT, but by not more than HUF 50 000, provided that the court duty paid is not less than 50% of the original amount. The reduction does not apply if mediation is not permitted by law in the particular case or if the parties go to court in spite of the settlement reached through mediation (except to give effect to the settlement in the absence of voluntary compliance).</p> <p>There is no national code of conduct for mediators, but the majority of mediation associations follow the European Code of Conduct for Mediators (közvetítők európai magatartási kódexe).</p> <p>There is a specific code of conduct for employment law disputes, which was prepared by the Service of Conciliation and Mediation in Employment Cases (Munkaügyi Közvetítői és Döntőbírói Szolgálat).</p> <p>Pursuant to Directive 2008/52/EC, applicants may request that the content of the written agreement concluded as a result of mediation be made enforceable. Member States shall inform the Commission of the courts or other authorities responsible for handling those requests.</p> <p>Parties may have the content of the agreement they have arrived at through mediation declared enforceable. They can request the court or a notary public to incorporate the agreement into a settlement approved by the court or into an authentic document, which can be enforced afterwards.</p>
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8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	
2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)	

