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Lifelong Learning and Labour Law in Hungary

Abstract: The aim of the paper is to scrutinize the situation of employees from the point of view of Lifelong Learning. Most studies have focused on unemployed people so far, therefore we considered it important to shed light on the case of employees. The first part of the paper reveals the background of inclination to training options, whilst the second part discloses the tendencies behind this phenomenon.

Key words: lifelong learning, labour law, employees, employers, learning agreement.

Establishing the environment for the concept of lifelong learning in Hungary is in progress, however, it is far from being complete. In view of the changes taking place both in the society and the economy, it has become an imperative to set up and update such conditions.

Regrettably, it has developed into a commonplace, albeit, still appropriate, that changes in market economies project the need that neither education, nor training can be over by graduation or completion of certain schools. Continuous development in technology makes it crucial to prolong learning, further training in order to keep up with the changes in world economy and even to change profession, if necessary. In view of all the above, lifelong learning cannot be regarded as mere opportunity, but a must that ensures the adaptation of employees to new demand coming from the economy³. In addition to macro-and micro economy levels, education also plays an important role in the life and career of

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³ The Memorandum 2000 of Lisboa accepted by the EU that emphasizes the significance of non-formal and informal education besides formal education and training gave guidelines for the developmental processes in Hungary as well.

the individual. In respect of adult education and labour market research professional literature regards education as a tool for increasing the employability of unemployed individuals. The aim of this study is to give an insight into the status of employees along with conditions influencing their education.

As a starting point it needs to be highlighted that the more education an individual has the more valuable he is in the labour market. Due to the expansion of higher education the education level of new candidates entering the labour market today is much higher than earlier. As a result of the above, the average age of novices is higher, whilst further training and education is a constant demand for most professions and therefore education can never be terminated. The primary aim of lifelong education is to develop an individual's competencies and hence increase his employability and the value of his job.

Factors influencing the inclination of employers to train their staff

The employees with adequate skills and knowledge are often hard to find, therefore the subjects of the economy, i.e. employers and employees, frequently have to provide themselves with the necessary skills and competencies. In my assumption there are two basic factors influencing the motivation of employers in respect of promoting training options to their employees: the financial background of the employer as trainings imply significant costs and the other is their work profile as the continuous changes in science and technology do not have a direct impact on all sectors of the job portfolio. Furthermore, the trainings available also have an affect on all the above regarding their costs and time consumption. Employees have the following options to acquire the necessary skills and knowledge needed for their job: curricular and extra-curricular education, trainings, intensive programmes or conferences, including informal education and empirical knowledge acquired through their daily work.

Additional investigation may also be required in relation to the ratio of employing professional, skilled individuals or those without the necessary skills where further trainings will be a prerequisite. As a consequence, determining the incidence of the various training options available is also of vital importance in view of the main factors influencing the inclination of employers to train their staff.

*Number of employees***Table 1:** Providing competent employability in respect of the number of employees %⁴

Nr. of employees	Informal education	Extra-curricular training	Curricular training	Employment and training of unemployed staff	Employment and training of unskilled staff	Employment of skilled staff	Other
10-19	60,5	64,9	6,6	12,3	5,3	39,5	8,3
20-49	60,3	65,5	9,7	10,5	9,7	40,6	6,1
50-249	59,9	74,2	9,7	9,6	9,1	45,3	5,3
250-499	60,1	82,3	15,8	10	10,1	41,1	2,5
500-999	70,6	92,2	11,8	11,8	11,8	54,9	8,8
1000-	61,2	91,8	24,5	8,2	10,2	51,0	4,1
Total	60,7	73,2	10,3	10,3	9,0	43,8	5,7

The above data indicate that regardless of the number of employees, extra-curricular training options play the biggest role in providing competent employability and the size of the business has no impact on it. The second most significant method is informal education, which is most likely based on the cooperation of colleagues, transferring knowledge to one another. In our hypothesis the role of elder and experienced employees is significant in this context. Employability of skilled staff is the next in the row which also supports the earlier assumption, i.e. the training structure available only partly meets the needs of the labour market. The same tendency applies to the employment of skilled staff, which is the businesses with higher number of employees and more profit, which can afford to employ more skilled personnel. However, there is only a slight difference in this respect among companies with various numbers of employees, which brings us to

⁴ The main figures of trainings. KSH (Central Statistics Office). 2002. The information above represents data of 1999. Unfortunately there were no further surveys later on, therefore both the NFI (2003), (2004-2006) research and the HEFOP programme apply these figures regarding trainings. Hence this is the only database available in respect of the factors and methods influencing the inclination of employers to train their staff that present study utilizes. Nevertheless it is worth mentioning that the outcomes of this study are significant only in view of tendencies as due to the changes of the millennium the ratio of employers employing high number of employees has significantly decreased, hence changing the portfolio of employers.

the conclusion that the costs of employing skilled staff and that of the trainings are almost the same.

The data also imply that the incidence of using trainings is exponentially growing with the size of the business. If we take curricular training, for instance, it is almost four times as much with businesses employing a high number of employees than as with a smaller number of staff. One of the main reasons behind this is probably the costs and time consumption of such trainings, which imply that the recovery of these expenditures is longer. Extra-curricular trainings are typically less time consuming, therefore those imply a shorter period recovery of the expenses and are thus more accepted by employers.

The 'Other' column of the table above include conferences, one-day trainings or brief further education programmes, which indicate that a relatively short period of time will supply employees with the necessary knowledge, skills and competencies. This meets the needs of smaller companies as these programmes can provide them with the required trained staff along with low costs and little recovery time. This condition gives the explanation to the reversed tendency and why these trainings are common among small businesses.

Employing and training unskilled staff also entail a considerable amount of time and costs and therefore the recovery of these expenditures also mean a heavier burden on small enterprises, which explains why the ratio of this form of training is more popular among larger-size businesses. Nevertheless, the tendency of employing and training unemployed staff is just the reverse. One of the reasons behind it is the fact that unemployed staff does not necessarily mean unskilled people and even holding certain skills indicate that their further training is much more feasible than that of completely unskilled personnel. The incentives provided by the government regarding the employment of unemployed people also have a significant role in the selection process, which therefore contribute to lower costs of human resources.

The work sector of the employer

The inclination of employers for trainings is also influenced by the work sector. The development of science and technology of the past decades and the changes in organisations have significantly shaped certain branches of the economy, whereas in other sectors the demand to enhance staff competencies is considerably lower. Where the developmental process was intensive the same intensity applies to the need for the retraining and further training of personnel. Apart from the continuous changes in technology and other division, like law, the profitability of certain economy sectors is also influential as applying new technology

requires significant capital just as much as skilled staff. It was mostly financial and public companies which utilized extra-curricular trainings the most. 76-82% of these companies supplied their staff with some form of education, whereas the indicators of businesses with less turnover prove less spending on training. The industry with the lowest indicator is textile, leather and clothing where only 31% of employers supplied their staff with trainings.⁵

Factors influencing the inclination of employees to trainings

There are several factors influencing employees to participating in trainings. Two of the most influential factors are age and the level of education.⁶

The role of education

The special features characterising an employee play an important part in their motivation to participate in trainings. Unfortunately, the ratio of entering adult education is rather low in Hungary. Albeit education indicators specify an increasing tendency regarding curricular education, after the completion of regular education less than 16-18% of the adult population enters adult education.⁷ Even if the scope of the investigation is extended both in terms of age (population aged 15-74) and education types (informal education), the motivational level is hardly more than 20%.⁸ At the same time the participation of individuals with secondary or high educational levels make up almost 90%, which indicates that the lower the education the less motivated the individual is in further education and thus adult education is mostly comprised of those with higher educational background⁹. Consequently, the participation of individuals with lower education is 10% in spite of the fact that this population would need further education the most.

Educational background also plays in essential role regarding the types of education and training. The outcomes of studies clarify that the ratio of individuals with higher educational background is lower in curricular education, whereas

⁵ The main data on work place trainings. KSH. Budapest, 2002. p 14.

⁶ Certainly, there are several other factors which have an impact on employees' motivation, such as marital status, place of residence, salaries and wages, etc..

⁷ The result of a survey on the population aged 25 and 64.

⁸ Ad-hoc educational model of the survey on work labour 2003 (KSH).

⁹ The same figures in the most prominent European countries, like Denmark or the Netherlands indicate that in the population of 25 and 64 the ratio in adult education is around 40-55% and only one third of this group is comprised of individuals with higher educational background.

it is just the opposite among those with lower education¹⁰. Extra-curricular education implies more advanced learning skills, such as independence; hence this puts a significant burden on those with lower education. Therefore curricular education and training is the best form of further education to this population. To reflect on previous findings, which entailed that curricular education is among the least supported forms of education by business owners due to their high costs, the population with lower education is in a multi-unfavourable position in the labour market: they are unskilled and even their further training and education involves more disadvantageous elements than that of those with secondary and higher education.

The significance of age

Motivational studies investigated the population in respect of all types and forms of education. Age proved to be an influential factor: the older the individual the less motivation he or she has to learn again, mostly not within an organised structure.

Table 2: The ratio of trained staff in respect of age % 2002/2003

Age group	Curricular education	Extra-curricular education	Informal education
15-24	92,5	9,5	18,9
25-34	40,7	36,8	41,0
35-44	17,9	48,6	51,8
45-54	6,6	44,3	64,1
55-64	1,1	29,9	85,2
65-74	0,0	7,6	91,7
Total	63,9	22,1	33,3

The above data indicate that, excluding informal training, motivation stops at an early age. In view of curricular education the participation ratio falls significantly to less than 50% and by the age of 55 it nearly diminishes. Simultaneously, the participation ratio in view of extra-curricular education is just the opposite, as this type of education is the most popular among the population of 35 and 55. The break point falls to the age group 65 and above, which is encouraging, in spite of the slight declining tendency among the younger age group. However, this decline is still far less than that of the age group of 35 in curricular education.

¹⁰The ratio of trained staff in respect of education and its types. 2002/2003. KSH.

Informal education proves to be the most dynamic form of education as even one fifth of the population of 15-24 is involved in it, albeit more than 90% of them are still in curricular education. Informal or in other words non-formal education is significantly present in all age groups. In the age group of 65 and above it has the same significance as curricular education in younger population. It is worth noting that the population near to becoming employees regard the importance of informal education the same as employers regard work related experience significant.

To conclude, the above data verify that the higher the age group, the less traditional methods of learning is preferred. The age of 55 can be considered as absolute break point after which the participation ration in organised education is rather low. The increasing ratio in informal education may confirm the fact that after a certain age individuals have a significant amount of skills, knowledge and experience that they can develop further with the help of professional literature, journals and consultation with colleagues. However, considering education indicators related to age, the education level of this population dos not validate this hypothesis, but the impact of their environment (work, family, etc.) is more significant and this is where they get most of their knowledge from.

Education and training mirrored through labour law

Labour law recognises two systems regarding the acquisition of knowledge and skills required by the job: entitles employer to give a directive to employee to obtain the necessary competences or entitles both parties to enter into a learning agreement. To conclude, it can be claimed that both legal approaches differ from one another not only in their structure but the use of instruments.

Training based on employer's directive

The legal liaison between employer and employee is not the same contractual relationship as in civil law, but a reliant and more dependent connection, which explains the legal background related to the training of employee. Fulfilment of the job basically serves the economic interest of employer, hence employee, based on his dependent connection with employer, can be obligated to participate in training whether he agrees or disagrees¹¹. The only condition regarding employer is to compensate the arising costs of both the training and the employee. There-

¹¹ Labour Law 1992. XXII. 103.§. (4)

fore, employee is not entitled to judge the necessity of such training programme and the only condition that exempts the person from participating is the case when he or his family suffers any form of non-proportional impairment. Deliberation is necessary to establish the legitimacy of such claim. Albeit, it is evident from the wording of the law that participation may cause some impairment to individual or his family, the significance of the term non-proportional is of vital importance, as exemption can only be executed in such cases excluding unwaranted training. To conclude from legal point of view, training is a condition that serves the interest of the employer.

Based on the above the interest of the employer is top priority, hence all the arising costs of the training programme are also his responsibility. By costs the labour law interprets absolute costs including all expenditure and overhead to be reimbursed by employer, like training fees, travel and accommodation expenses and even paper-wear. Employee is also entitled to earn his salary during the time off work due to the training or the exam period.

Learning Agreement

Labour law also secures the option of the parties to enter into a learning agreement¹². Training programmes with a learning agreement in the background are excluded from the earlier detailed training programmes based on employer's directive, as participation in such training cannot be secured by a learning agreement. Under these circumstances the parties' contractual liaison is the most dominant, hence labour law only determines the basic principles of such agreement in terms of its content and form. Laws and obligations of the parties are based on mutuality and equality of civil law as in such cases it is the employer who undertakes the costs of the training and ensures free time, whereas employee obliges himself to participation, obtaining the final certificate and maintaining employment for a certain period of time.

All costs arising from the training programme have to be negotiated between the parties; therefore, employer does not necessarily have to bear the direct expenditures.

Time allowance

Entitlement to time allowance, as maintained by Labour Law, is connected to participation and the type of the training programme is determined as legal ground.

¹²Labour Law 1992. XXII. 110-116.§.

Hence, employee is entitled to time allowance when it is curricular education and employer's agreement with the education is excluded. As the sole purpose of time allowance is to ensure employee's successful participation in the programme, time allowance can only be assigned to serve this goal and in the necessary quantity. Labour Law determines the legal title of time allowance as follows: attending classes, taking exams, writing final thesis.

Time allowance makes up a significant amount of direct costs of the training as regarding curricular education employee is entitled to time allowance, therefore his temporary replacement also needs to be ensured by employer including time allowance for the exam periods and the completion of the final thesis¹³.

To conclude, the legal grounds claimed above have an individualistic character, independent from whether they originate from employer's directive or a learning agreement representing the interest of both parties. Nevertheless, this fact makes the human resources policy of employer rather difficult. Unfortunately it is a world-wide tendency that the functioning of trade unions and trade councils is diminishing; therefore they cannot contribute much to employer's training policy. A relatively high number of employers do not even have a training schedule due to, as they claim, lack of resources. As a conclusion we can say that Labour Law does not enclose any forms of regulations that would serve as incentives to employers to enhance employees' education level, but merely options are supplied to establish the legal background of such demands.

Summary

In our view the above detailed regulations have several weakest links. One of the most essential shortages of the law is that it differentiates between training programmes as it determines, *ex lege*, the entitlement of employee to time allowance when it comes to curricular education, hence excluding all aspects in employer's interest.

Labour market investigations all clarify that training trends have significantly changed and traditional, curricular education does not necessarily follow demands of the market, which explain the devaluation of such programmes. From this viewpoint Labour Law seems quite obsolete, which actually has not changed since it was enacted. Certain encumbrance implies employer indepen-

¹³Based on the law employee is entitled to 4 work days off including the day of the exam. Should the employee have to pass more than one exam a day, the days are quadrupled. 10 work days have to be supplied to employee when writing the final thesis or any other forms of theses.

dent from whether his approval was given or not or whether the education is needed for the proper fulfilment of the job. Hence, Labour Law tolerates the burden of certain training programmes to be put on employer, which have no direct benefit to him. In our assumption the theoretical background of the regulation is the economic benefit of the job as there are no other aspects to be taken into account. However, the laws and regulations in effect are in contradiction to this, as employer is obliged to allocate time allowance in cases of curricular education without any further conditions. We propose the modification and restriction of laws and regulations with the condition that curricular education must have a direct connection to the job executed. The employers that have Labour Law regulating them are mostly business organisations with the primary aim of achieving their business goals. In order to avoid the impairment of employees' rights, individual governmental support should be imposed to, for instance, the primary school education of employees. This could also compensate for the differences various employers have regarding expenditures.

The size of businesses is an influential factor regarding the supply of training programmes. It is worth noting that the structure of employers is rather special in Hungary: 10.8% of all employees work for businesses with no employees, their ratio in micro economies is 25.2% and in small enterprises is 14.1%. This implies that 40% of all employees work for businesses under the size of small enterprise and the same figure increased to 45% in year 2007¹⁴. These companies have hardly any resources available for training programmes. Sponsored training programmes are proposed thematically, however many enterprises do not have either the human resources or the expertise to apply¹⁵. At the same time Labour Law regards employers homogenous and does not differentiate between the allowances, entitlements of employees. Employees' interest in training is present in Labour law in an absolute sense and employer needs to take sacrifices even if he did not give a directive for the training or the training is not correlated to the job. This entails a heavy, often unreasonable burden on employer as a consequence of which they often resist such programmes. This is mostly common among small enterprises.

The same laws and regulations also mirror the problem of homogeneity, typical of Labour Law, which imply too heavy burden on businesses with small employee capacity, meaning those employing the maximum of 10 employees. We consider it important to modify the law implying differentiation. Differentiation does not necessarily have to entail exemption as this would not serve the primary

¹⁴ Human Resources Development Operative Programme 2000-2006

¹⁵ Source: 'Small- and medium enterprises in 2000.' Annual report of the Institution of Small Enterprises, page 52.

goal of knowledge based society. However, vast number of employees may get into disadvantageous position with it; hence the solution might be an authorization of the relevant minister as a result of which the expansion of the active means of employment policy would specifically relate to employers' capacity.

The last remaining question is whether the direct costs related to training should be regarded as the expenditure of the employer solely, or employee, whose skills and competences increase significantly with the acquired knowledge, parallel with his market value, should also have a share of the costs. Based on Labour Law our view is that the expenditure of training programmes should only fall on employers as employees' knowledge enhancement can well be interpreted within the laws and regulations of the learning agreement and that of 3§.(6) of Labour Law referring to the prohibition of competition.

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Apstrakt: Cilj ovoga rada jeste sagledavanje položaja zaposlenih sa stanovišta celoživotnog učenja. Većina dosadašnjih istraživanja usmerena su na nezaposlene, pa smo smatrali da je važno da se posebna pažnja posveti zaposlenima. Prvi deo rada bavi se onim što se nalazi u osnovi preferencija za različite vrste obuke, dok je drugi deo rada posvećen tendencijama koje stoje iza ovog fenomena.

Ključne reči: doživotno učenje, zakon o radu, zaposleni, poslodavci, sporazum o učenju.

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¹⁷Tímea Németh je predavač i međunarodni koordinator na Fakultetu za obrazovanje odraslih na Univerzitetu u Pečuju od 2000. godine. Njena istraživanja fokusirana su na pitanja interkulturnih kompetencija u kontekstu programa celoživotnog učenja.⁹