



New Forms of Employment in Hungary

- a legal overview

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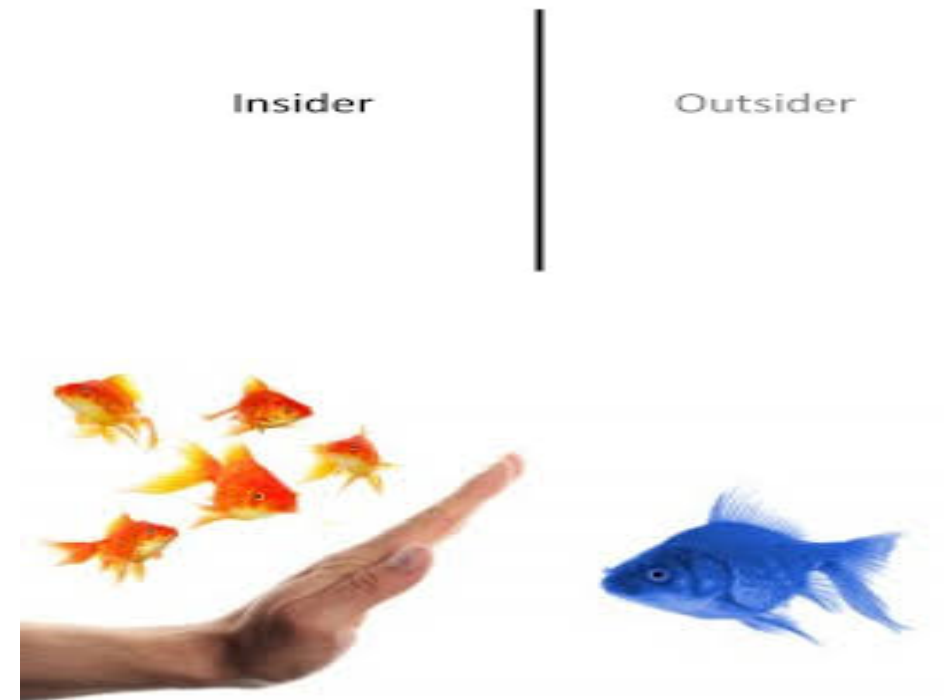
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Legal policy – the official reasoning of the Labour Code (2012)

*„One of the fundamental tools for creating flexibility in employment is the regulation of the so-called **atypical forms of employment**. In this respect, the Proposal sets out to provide wider scope for the agreements of the parties and only intervenes in the shaping of the forms of employment by the parties inasmuch as necessary to enforce the best interests of employees as a guarantee and to protect important public interests.”*

4 TIERS OF NON-STANDARD WORK IN HUNGARY



'FIRST TIER' – atypical forms of employment in the Labour Code (a closed list!?)

Chapter XV: Special Provisions Relating to Employment Relationships According to Type

- 83. Fixed-term employment relationships
- 84. Call for work
- 85. Job sharing
- 86. Employee sharing
- 87. Teleworking
- 88. Outworkers
- 89. Simplified employment and occasional work relationships
- 90. Employment relationships with public employers
- 91. Executive employees
- 92. Incapacitated workers

Chapter XVI: Special Provisions on Temporary Agency Work

'SECOND TIER' – non-standard forms 'on the edge' of labour law, as tools of employment policy

1. Simplified employment and occasional work relationships

- Partly in the LC (+ Act LXXV of 2010), less administration - but limited protection and lower wage (85% of the statutory minimum wage)

2. Cooperatives: students and pensioners

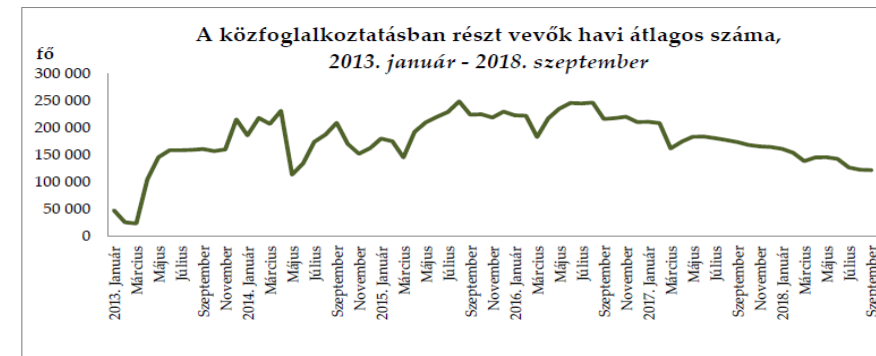
- TWA-type 'business' - 'outsourced' from labour law (Act X of 2006) – with preferential tax-treatment
- Ideally: collaborative forms of employment – reality is different

3. Public works (PW) programme

- Special form of employment and a form ALMPs (Act CVI of 2011)
- Lower minimum wage (59%), lower standards – in-work poverty
- Source of rising employment rates?

+ Household work (in tax law)

- In practice: often mediated via platforms



'THIRD TIER' – non-standard forms 'in the grey zone' 1.

'Getaway/escape from labour law'

DRIVERS:

- to circumvent the contribution (and tax) burden entailed by a traditional employment relationship;
- to bypass labour laws;

FORMS: 'sham' ('bogus') civil law contracts

LEGAL SOLUTION: re-classification...

Set of guidelines adopted by the Minister of Employment and the Minister of Finance jointly in 2005
(*FMM-PM Joint Guidelines on the qualification of contracts for work performance*)

- to accurately define the inherent attributes (or tests) of a dependent, traditional employment relationship
- primary (4) and secondary (7) criteria...
- not in force anymore, but....

'THIRD TIER' – non-standard forms 'in the grey zone' 2.:

Failed introduction of an in-between (third) category of workers

- The original Proposal (2011) would have introduced the category of „**person similar in his status to employee**” widely known in an increasing number of countries (i. e. **economically dependent workers**)
 - In British law: worker. German law: „arbeitnehmerähnliche Person”
 - Mostly based on a contract for work and services or contract of engagement, but they depend economically on the users of their services in the same way as employees, and have similar needs for social protection.
- The Proposal prescribed the application of certain rules of labour law also in other work-related legal relationships (in the event of the existence of certain conditions).
- This legislative solution intended to pay regard to the social security of workers, regardless of the nature of the legal relationship within the boundaries of which work is performed.
- *Finally, no extension of the scope of the L C. has taken place!!! (but still discussed...)*

'FOURTH TIER' – non-standard forms of the 'future'? – sharing economy

- The platform economy is rather invisible, marginal, not conceptualized and not defined (neutral policy framework)
- The Uber-story (2014-16) – tax-related & public regulation discourse (Law no LXXV of 2016)
- Exists only in some sectors where informality prevails (e. g. babysitting, cleaners)

NOTE: one of the key tools to cope with the challenges of digitalisation and the NEW WoW is education (and life-long learning), so that the employability (and adaptability) of workers can be guaranteed even under rapidly changing labour market conditions. However, the *concept of LLL is very underdeveloped and immature in Hungarian labour law* (or in labour market regulation, more generally). For instance, the Labour Code does not contain any specific rules, or schemes which could directly foster lifelong learning.



Lack of meaningful social dialogue and collective bargaining – new forms of employment in Hungary

László Neumann

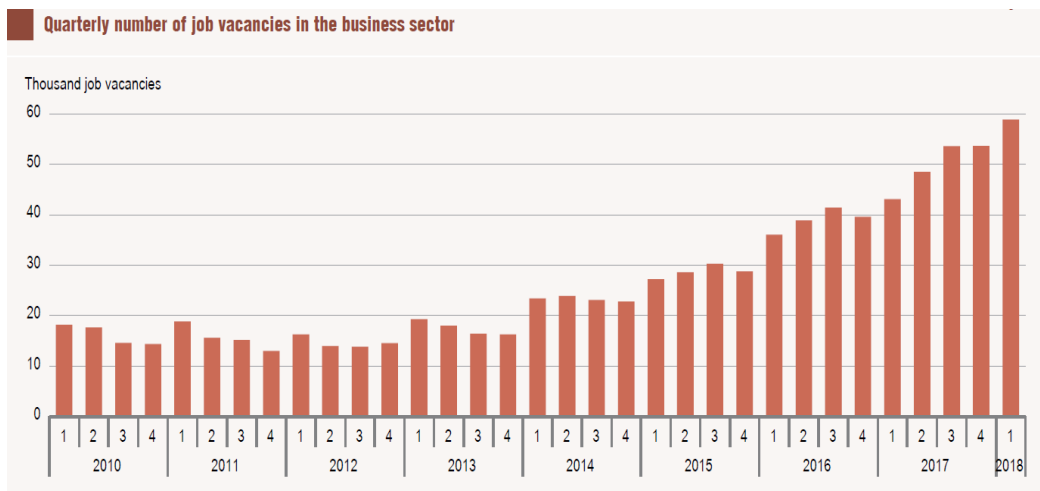
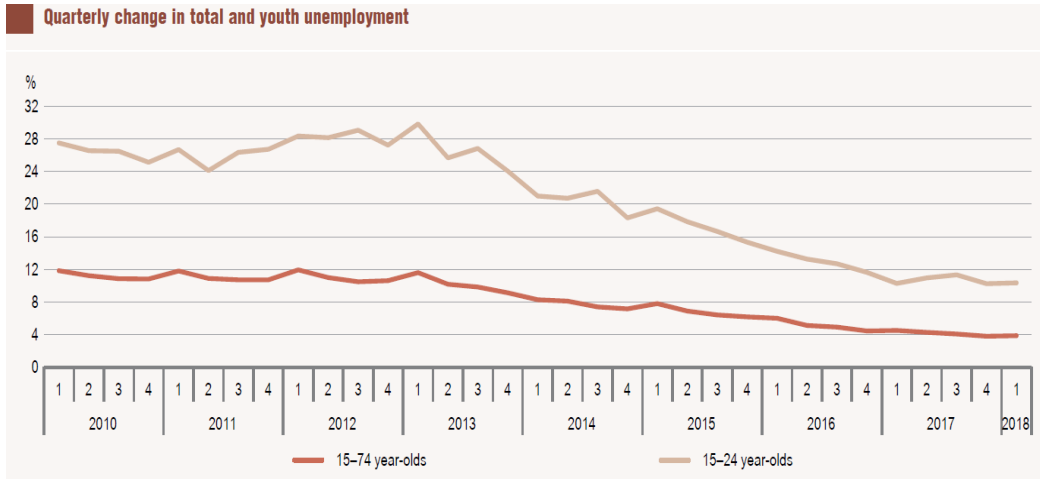
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Outline

- Background: recent changes in labour market environment
 - Company and policy responses
- Incidents of highlighted new forms:
 - (Fake) civil law contract
 - Temporary Agency Work
 - Products of labour market policy measures (public work, student and pensioners' cooperative)
 - Digitalisation (telework, platform works, shared economy, etc.)
- Social partners approach, existing social dialogue
- Towards a changing trade union strategy?

Recently changing labour market environment

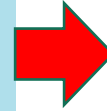


- Until 2013: slow recovery following the 2008-10 crisis
- From 2013 onward: rapid switch from ample labour reserves to manifest labour shortage
- Reasons:
 - Economic growth
 - Demographic replacement
 - Outward migration
 - Skill mismatch between vocational education's output and economy's demands
- Shift in policy focus: job creation
 - ➔ supply side intervention

Company and public policy responses to labour shortage

Company responses to labour shortage (labour turnover)

- Substituting labour by robots? NO !
- Hiring into permanent jobs instead of temporary (TWA)
- Excessive overtime
- Work intensification (automotive ind.)



Government measures

- Wage hike accepted and compensated by cuts in social security contribution
- Decreasing public work budget, training to 'open' labour market
- Subsidising 'import' of foreign workers (agencies, workers' accommodation), 20,000 Ukrainian and Serbians
- Pensioners' cooperatives

Tackling labour shortage has been an issue of importance in **national level social dialogue**

2016: Three year tripartite agreement on hike in wage minima, public sector wage increase

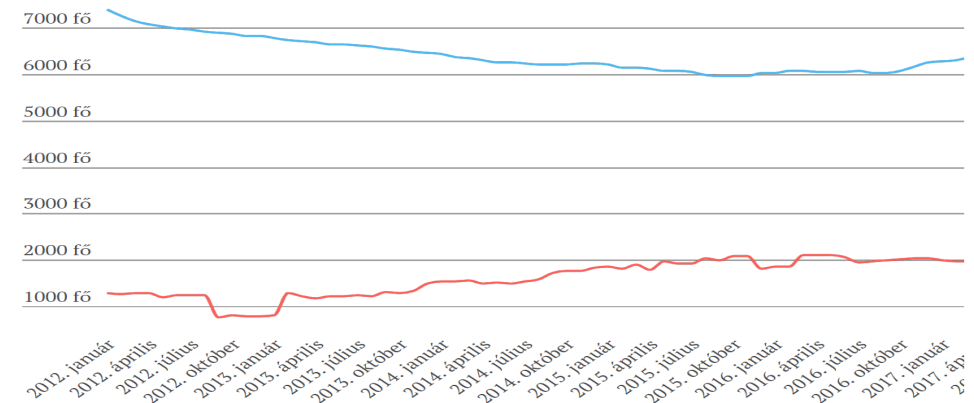


Now: Further flexibilisation of working time regimes, more overtime (up to 400 annually?)

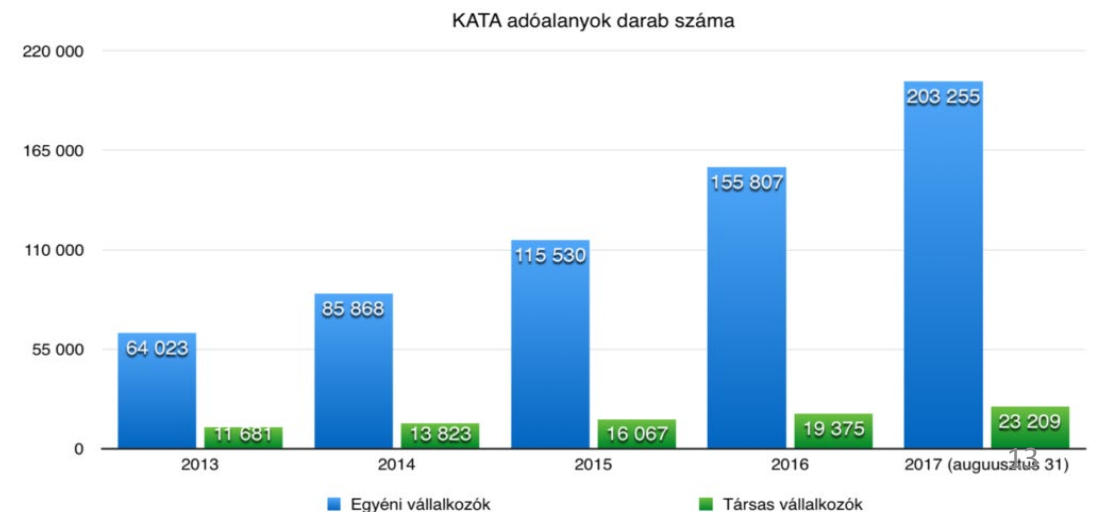
Civil law contract (instead of employment relationship)

- Concentrated on certain areas: private security, sales agents, teleworkers, taxi drivers, etc.
- Majority of cab drivers
- Illegitimate: incidents unknown
 - Statistics: 138,000 with one dominant client out of 423,000 self-employed
- Favourable taxation (KATA), few fraud detected by tax authority
- Fake contracts are negligible according to Labour Inspectorate Report (compared to undeclared employment)

Taxi drivers: self-employed (blue) and employee (red)

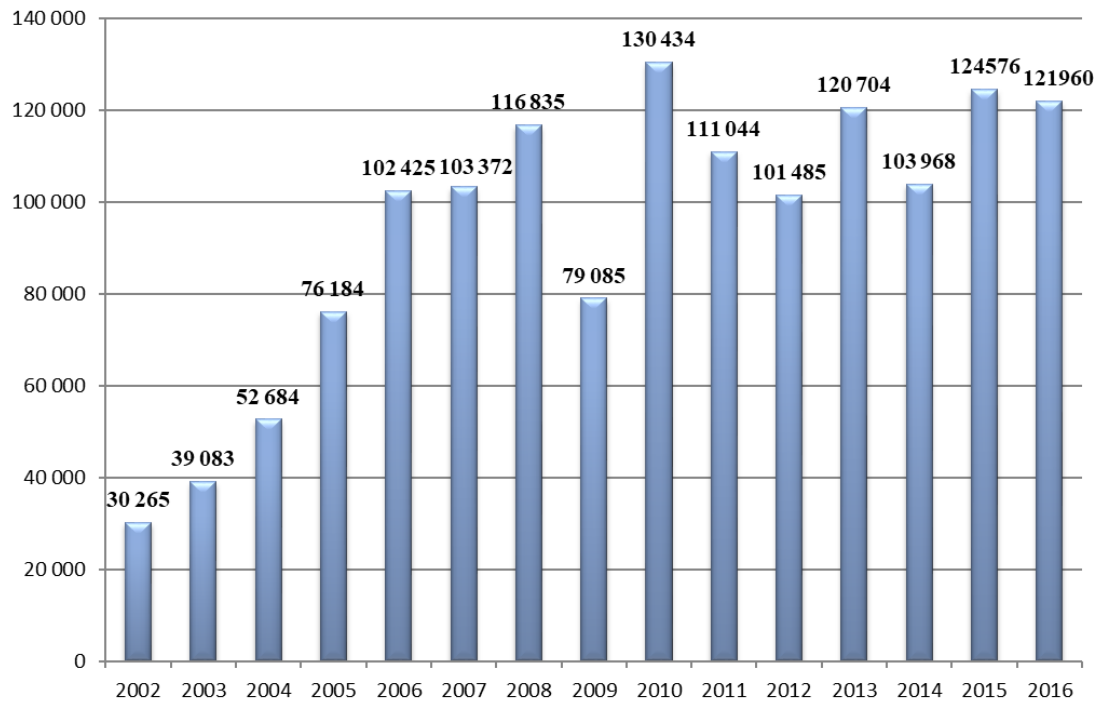


Number of business choosing flat rate taxation (KATA)



Temporary Agency Work

Number of employees at TAWs



Source: Ministry of National Economy

- Statistics (CSO data) of more traditional atypical forms:
 - Part-time and fixed-term contracts have been rare (4.3 % and 9 % in 2017)
 - Telework: less than 1% regularly, 1-1.5 % occasionally. (Eurostat)
 - Self-employed 10% of all employed
- TAW as crisis indicator (2009)
 - New: foreign agency workers

Incidence of other new forms

Student and pensioner co-operatives

- About 130,000 student-members (2015)
- About 10,000 pensioner-members, less than expected by the government
- National network of „co-operatives”
- In practice:
 - Not real co-operatives (with owner-members and democratic by-laws, etc.)
 - Business networks with the same activity as of temporary work agencies, making use of preferential taxation

Public work schemes

- Introduced as „workfare instead of welfare” measure together with tightening criteria for unemployment benefit and social assistance and cuts in local governments’ funding
- In its heydays it made use almost the whole labour market fund (2016: 220,000 people)
- In remote settlements this has been the only job opportunity, especially for the low educated
- From 2017 government decision to allocate less money, shift to training for open/primary job market

Much ado about nothing? Public discourse vs. social dialogue on digitalization

Public discourse, research papers:

Impacts of automation of industries, potential job losses, skill shortages, etc.

Government:

Digitalisation commissioner and subsidised programs
Digital Workforce Programme
(January 2018)

Trade union actions:

Awareness raising conferences with foreign partners (ETUC, ILO, FES). MSZSZ: five conferences during the recent 2.5 years. Presentations mainly from industry specialists and researchers on technology and social „challenges“

Nothing about local unions union actions or collective agreements!!!

Limited and belated Social Dialogue

(2010-11: Most of the earlier tripartite forums were eliminated or replaced by weaker ones)

National Economic and Social Council (October 2018): First national level discussion - trade unions position on workers' priorities

Existing social (?) dialogue – not about labour issues

- UBER case: introduction of strict market regulation following lobby and blockade of taxi drivers, Uber left the country (2016)
 - Cab driver „trade union” represents the dispatcher companies’ (call centres) interests vis-a-vis Budapest City Council
- Lobbying effort of Chamber of Commerce and Industry to raise the flat-taxation (KATA) revenue cap (i.e. more businesses qualify)
- New organisation of accommodation service: negotiate on regulatory issues at Budapest District Councils on behalf of owners

„BAN THE UBER!” road blockade (2016)



Towards renewal of trade union strategy?

- NO real challenge from new form of organisations (atomised workforce in platform works)
 - The only exception we learnt: association of small accommodation service providers (AirBnB, etc.): innovative business / entrepreneurial identity
- Trade unions' organisational drive
 - Traditional approach: atypical workforce – even temporary workers – 'can not be organised'
 - Slowly changing attitude of federations: new individual members from TAWs, self-employed sales agents (MTSZSZ)
- New initiatives at confederation level:
 - Help self-organising of the self-employed (film makers union - MMKSZ)
 - Cooperation agreement on students' work between trade union confederation and peak organisation of student communities

Thanks for your attention!