

**ECONOMIC AND LEGAL BACKGROUND  
OF UNTYPICAL EMPLOYMENT FORMS  
IN HUNGARY**

**Katalin Lipták**  
University of Miskolc, Miskolc, Hungary

# **ECONOMIC AND LEGAL BACKGROUND OF UNTYPICAL EMPLOYMENT FORMS IN HUNGARY<sup>1</sup>**

## **Abstract**

My paper presents untypical (that is different from typical) forms of employment in economic and legal respects in case of Hungary. I have chosen the analysis of untypical forms of employment because they have been more and more used in the economy and can be considered an actual question. After the political transformation, the structural change and the reorganisation of power potential resulted in significant changes in the labour market, which had an effect on the legal regulation as well.

**Key words:** untypical employment, temporary employment, telework, law of labour

## **Introduction**

Untypical employment is different from the typical, full-time employment. It is a special form, which differs from the well known model in many ways taking into consideration the place, the time and the schedule of working. In the developed, globalized world of our days, in many spheres of – not physical – activities working is not any more limited in time and space. Certain services can be provided from anywhere in the world thanks to infocommunication technology. All these have contributed to the spread of untypical employment.

My aim is to introduce the importance of the topic and to give an overall view of the form of employment different from the traditional one, which is a new challenge not only for the actors of the economy, but also for legislators and the users of the law.

---

<sup>1</sup> My research has been supported by the „Közösen a Jövő Munkahelyeiért” Foundation.

## **The conceptual problem and the European trend of untypical forms of employment**

A distinction has to be made between untypical (special) employment as a legal form and untypical working. The former means the legal forms of working that are not traditional, not typical, like the well-known outworking legal relation, that has recently fallen into the background, or casual work, the expanding telework, part-time employment, (individual or collective) self-employment, temporary employment and fixed-duration employment (contracted employment). Untypical working means, however, that the frame, the condition and the scene of the activity differ from the typical ones, like working outside of the premises of the institution or company, or working in one or more departments of them (costumer service office, telehouse, salesman activity).

The literature defined the not typical work legal relations as untypical work (legal) relations at the beginning of the 1970s, when the deviation from the typical forms of work legal relations of the employees started to increase. That time the actual appearance of untypical working was rare, so the typical untypical pair of concepts spread in the literature of the law of labour in the beginning. "Untypical working thus originally only referred to the untypical forms of work legal relation known by the national rights, namely usually to the work legal relation contacted for fixed-duration and for part-time and recently to seasonal working, temporary employment and telework". (Hovánszki 2005, 30.)

Different areas of science define untypical employment in different ways. Lawyers of labour define it as working in a not typical way, statisticians define it as concrete ratios and sociologists refer to each form different from traditional under this concept. "In the literature of the law of labour, untypical employment and untypical labour relations are the most widespread comprehensive expressions to refer to the not typical forms of employment." (Kiss 2001, 409.) A further problem of the definition is that innovative and flexible categories have been started merging with the category of untypical employment.

The data in Table 1 show the ratio of part-time and full-time employed in 1998 and 2008. No significant deviation can be seen. A slight increasing trend characterised both Hungary and the European Union in the examined ten years. Hungary remarkably falls behind the European average taking into account part-time employment.

Table 1 The rate of the part-time and full-time employed in 1998, 2008

2008		EU-27	Hungary
part-time	male	7.9	3.3
	female	31.1	6.2
	total	18.2	4.6
full-time	male	13.3	8.7
	female	14.9	7.0
	total	14.0	7.9
1998		EU-27	Hungary
part-time	male	6.3	2.3
	female	28.7	5.5
	total	15.9	3.8
full-time	male	11.1	7.1
	female	12.2	5.8
	total	11.5	6.5

Source: Employment in Europe 2009

Figure 1 shows the rate of part-time and full-time employed in 2008. Among the member states, the Netherlands was at the top in part-time employment. 75.3% of women, 23.93% of men and 47.3% of the whole population worked part-time.

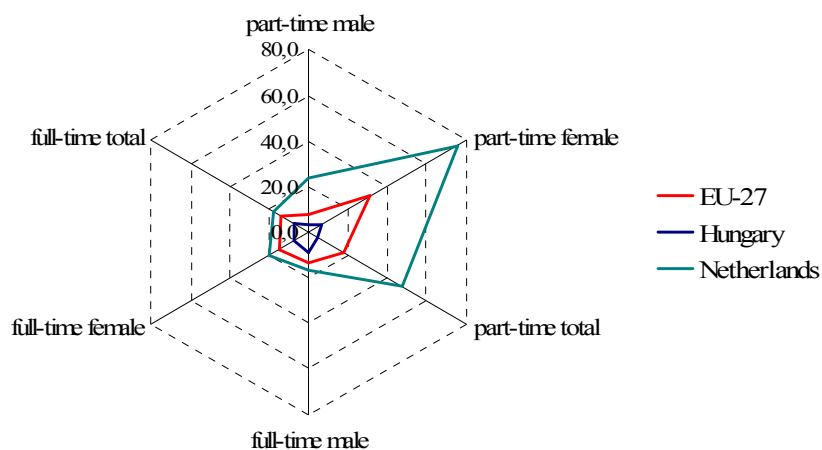


Figure 1 The rate of the part-time and full-time employed, 2008

Source: own compilation based on Employment in Europe 2009

The linear trend line in Figure 2 shows the rate of part-time employed in the European Union between 1998 and 2008 and the actual rate of the employed. The raw values have regular amplitude around the trend line. Its

amplitude is nearly the same for both the negative and the positive deviations. In the last two years a decline can be seen compared to the previous period.

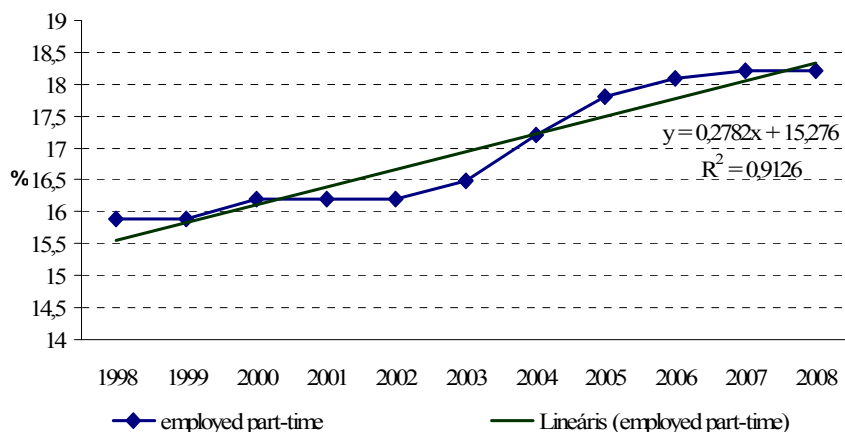


Figure 2 Trend of the part-time employed (EU-27)

Source: own compilation based on Employment in Europe 2009

### The formation of untypical forms of employment in Hungary

Before the transformation, almost 90% of the employee had “traditional” fix-term labour contract, which legal regulation was involved in the Labour Code. Besides, contracts of agency and of work fallen under the Civil Code were also present in business. Moreover, there were untypical forms of employment as well, that differed from typical, but the rate of these was negligible in view of the employment ratios of the national economy. So their application was not really widespread due to the lack of the necessary legal background. (Hertel 2004)

The situation significantly changed after the transition to market economy. Both employers and employees gave up the former attitude. Before the transition the traditional employment meant safety for the employee. One of the disadvantages of the untypical forms of employment is that the employer’s interest comes into the limelight and in contradiction to the interest of the employee, which leads to a more uncertain situation for the employee. The appearance and spread of untypical forms of employment was caused by the different environmental conditions, that is a brand new form of enterprises and mass unemployment appeared and new tax categories were introduced. As everything that is new or innovative, it arose strong repugnance first, but later its advantages and application conditions were more and more discovered. It was accompanied by the formation of the legal background and its adaption to the European trends, which was even more affected by the joining to the European Union in 2004.

The appearance of untypical forms of employment was also enhanced by the facts that the characteristics of labour changed in the long run, markets became more and more unstable and information technology gradually spread. In the capitalist economy in its traditional sense, traditional employment functioned well, but in the economics with new characters, the formation and spread of employment different from traditional were necessary. Companies need to be able to modify the labour force flexible. To do so, employee does not need to be dismissed, instead, temporary employment can be applied. (Ékes 2009)

According to Héthy (2001), the effect of the globalization to the employers and the employees can be summed as follows: the traditional employment for an unlimited time is replaced by fixed-duration employment, the utilization of working hours become more flexible, working without employment (based on civil legal relations) comes into the limelight, part-time employment spreads instead of full-time employment and as a result of all this untypical employment spreads.

### **The legal condition of untypical employment**

Since the appearance of untypical employment, problems of regulation and deregulation have been important issues. Legislation has been behind in the sense that overall legal mapping of these forms of employment has not been done yet.

### **Challenges in the law of labour**

Some literatures give different view about the challenges in the law of labour in the 21th century. Many studies deal with the crisis of this field of law and with the end of the classical institutional system of the law of labour. Because of the development and the change of legal relations about employment, this issue is even more interesting and it is important to analyse the recent situation.

Among the most important elements of changes, the changing employer structure clearly appears. In case of the classical law of labour, the employer is a well definable production company, which is hierarchically directed and connected to the employees. This model is more and more replaced by the net-like, so called multidimensional organisations that have a compound system of relations, with cluster-like structure in some cases. At the same time, loose relation forms among the members in the new types of organisations. The other essential part of the change is the employees' mobility and the geographical dispersion of the employers. The bulk of the big companies has many affiliated

firms, branches and premises and in certain cases employees do not work indoors any more, but at home or at a telehouse.

Legal environment is also affected by the decrease of the national states "borders". Law of labours is made up of regulations effective within the country in its traditional sense and it has more and more disappeared in the past decades. This has multiple reasons. Hungary is also a member of several international organisations, the European Union can be considered to be the most important gathering, the legal background of which affects the recent domestic law of order considerably.

### **Legal sources of the European Union**

Within the European Union, laws about untypical employment were created after the definition of generally accepted regulational directives. "These directives are the following: laws are not comprehensive, but they regulate separately the different forms in parts. The regulation principally defines the minimal standards of untypical employment providing frames and limits to its application. The aim of the regulation is the protection of the employee....Laws have to guarantee the volunteership of establishing untypical labour relations." (Hertel 2004, 4.)

Even two documents of the EU deals especially with telework. One of them is the "White Book" of 1993 and the other is the so called Bangemann-report with the title of Europe and the global information society. At the same time, regulations especially about telework cannot be found in the member states and special directive guides have not been created either.

Directives have recently been created on part-time and fixed-duration employment (Directive 97/81/EC on part-time work and Directive 99/70/EC on fix-term work). Some questions about temporary employment are included in the Directives 91/383/EEC and 96/71/EC, while the category of self-employment has been regulated in respect of egalitarianism between men and women (Directive 86/613/EEC). The regulation of untypical forms of employment in the Union has been a long and politically significant question. The first directives were created 20 years ago, and several unsuccessful and successful legal sources were created as well. The uniform regulation was made more difficult by the fact that member states do not have equal economic and legal background and their regulations are also different. This means a problem nowadays as well. The first attempt was made in January 1982 when part-time employment was regulated by a directive. The proposals were reframed several times and in 1983 they were finally taken off the agenda.

## Legal sources in Hungary

By examining the legal background, it can be seen that there are no special regulations for part-time employment in Hungary today. A reason for it can be the low statistical data in this field. While in more developed states of Europe the rate of part-time employed is significant, it is in very low, initial level in Hungary. The Labour Code makes part-time employment possible if the parties agree on it.

Table 2: Regulation places of untypical forms of employment

<i>Untypical form of employment</i>	<i>Regulation place</i>
Telework	Act XXVIII of 1994 embodied to the Labour Code
Temporary employment	Act XXII of 1992 (Labour Code) Act IV of 1959 (Civil Code)
Part-time employment	Ministry of Labour Affairs decree 6/1996. (VII. 16.)
Employment with temporary employment book	Act LXXIV of 1997 on Employment with a Temporary Employment Book and on the Simplified Procedures for Payment of Associated Public Rules
Home working	Convention of 1996 on Home Work (international convention 177)
Self-employment	Act LV of 1994 on Arable Land

Source: own compilation

Table 2 shows the wide range of domestic legal sources regulating untypical employment, which makes the situation even more chaotic.

20 percent of all the employees in Hungary have fixed-duration labour contract. The Hungarian regulation regards the legal relation for an unlimited time as the general rule. According to the 79 § (1) paragraph of the Labour Code, the employment is for an unlimited time failing different agreement. The standpoint of the Labour Department of the Supreme Court has interpreted the fixed-duration labour contract. There are shortcomings in this field as well with respect to the legal background.



## Summary, proposals

Unypical employment is still in its infancy in Hungary. At the same time, I think this will be the future. Legal conditions have to be elaborated and adaption to economic and international trends is also necessary. As for temporary employment, the law regulates clearly and well. The same is true for teleworking, but the other forms of untypical employment are not included in the Labour Code. I think that untypical forms should be interpreted and regulated in one legal source as it would make the interpretation of the legal source easier.

Presence of untypical forms of employment at the Hungarian labour market has advantages and disadvantages for the employee, but I think that the turn of the balance is with disadvantages. A partial solution can be a better considered and unified legal material.

## References

- Bankó, Zoltán 2001. Az atipikus foglalkoztatási formákra vonatkozó rendelkezések. In: Kiss, Gy. *Az Európai Unió munkajog*. Budapest, Osiris
- Ékes, Ildikó 2009. *Az atipikus munka és jövője*. Munkaügyi Szemle, 51(1):66-71.
- G. Fekete, Éva – Osgyáni, Gábor 2009. *A munkavállalási motivációk időbeni és térbeni változásai*. Észak-magyarországi Stratégiai Füzetek, 6(1):38-62.
- Héthy, Lajos 2001. A rugalmas foglalkoztatás és a munkavállalók védelme; A munkavégzés új jogi keretei és következményeik a munkavállalókra. In: Frey, Mária: *EU-konform foglalkoztatáspolitikai*, OFA, Budapest
- Hovánszki, Arnold 2005. *A tipikus és az atipikus foglalkoztatás Magyarországon*. Munkaügyi Szemle, 7-8:30-36.
- Kártyás, Gábor 2009. *A munkajog új kihívásai a XXI. század elején*. Munkaügyi Szemle, 53(1):42-48.
- Neal, Alan C. 1999. *European labour law and social policy: cases and materials*. Kluwer Law International, 735.
- Somodí, Istvánné 2001. *A foglalkoztatási törvény módosítása*. Munkaügyi Szemle, 45(7-8):62-64.
- Tóth, Sándor 2008. Az atipikus foglalkoztatási formák bemutatása. Munkaadók Lapja, 9(9).