

Hungary

The major difficulty in addressing the issue lies in the broad alliance of strong interests to maintain the informal sector in place: while it undermines public services, weakens social protection, interferes with economic competition and enfeebles trade union strength, it also contributes to the survival of the most vulnerable groups of labour who have lost their positions in the labour market.

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1. Introduction

In discussing the topic of trade unions and the informal sector, it is necessary to make use of certain fundamental building blocks of which our analysis is structured. To analyse – and simply to understand – what is going on in Hungary, we are to discuss: (a) the informal sector; (b) the trade unions and the trade union institutions by which the workers' organizations have their impact felt on public policy formulation, on employers, on the behaviour of their membership and workers in general; and finally (c) guidelines for future trade union action. Owing to the nature of the topic itself, systematic, well-founded scientific information is extremely scarce: one should rely on estimations, perceptions and speculations.

2. The informal sector or “hidden economy”

2.1. Does Hungary have an informal sector?

Hungary is a country undergoing economic transition. It has brought to term its market economy institutions and has practically completed privatization process; it is a member of the OECD, the Council of Europe and is currently negotiating European Union (EU) membership.

In this context, it is difficult to pinpoint the presence of an “informal sector” as such, at least in the original sense of the ILO's definition, created primarily for the developing countries.¹ More precisely, like most of the industrialized

countries, Hungary is characterized by an “underground”, “hidden” economy – or in the euphemistic term of the 1970s – a “secondary economy”, where prevail the types of employment that are characteristic of such economic operations. It is true that those engaged in the “hidden economy” are primarily motivated by tax evasion and have much greater access to public services such as education, health, transport, etc., than those in the informal sector of the developing countries, but at the same time – as will later be argued – such activities are still associated with survival strategies of the poor. For such employment – although unrecorded, unregistered and unregulated, i.e. informal – the most appropriate term seems to be “undeclared” work as applied by the EU.²

Thus, the concept of informal sector is used in a wider sense than the original ILO definition in the present paper, covering primarily the “underground” or “hidden” economy and employment therein.

2.2. The nature and dimensions of the informal sector

Hungary has a vast “hidden economy” or informal sector. Research was first conducted on the sector – in some respect in cooperation with the ILO – as early as 1980.³ According to estimates by economic experts, its size in 1992 amounted to about 30 per cent of GDP and to date it remains at the same level.⁴ It considerably increased in the period 1985-92 when economic transformation gained impetus. It is extremely heterogeneous: it includes non-registered activities of (mostly small) business

organizations and of individual entrepreneurs, home work, seasonal and occasional work performed by unemployed and inactive people as well as by foreigners without any work contract, such as repair work done for the households, “private lessons” by teachers, moonlighting and “tips” which supplement income from legal activities (exercised by doctors, nurses, waiters, petrol-station operators), etc.

In terms of employment and income, two major categories of informal activities seem to exist: firstly, when both employment and income originating from it are undeclared (unregistered, unrecorded); and secondly, when employment and part of the income is declared (registered and recorded), but another part of the income is not. Such a combination of formal and informal, declared and undeclared, is reported to be extremely frequent. Its typical form among wage earners is legal employment (based on work contracts and sometimes even on collective agreements) and legal pay – at the level of the (legally obligatory) national guaranteed minimum wage – supplemented by additional payments “from pocket to pocket”, as it is put in Hungarian everyday language. A wide variety of similar combinations also exist among self-employed entrepreneurs.

Such combinations have their definite advantages for those involved compared with those involved exclusively in either totally formal or totally informal activities. In the case of the employment relationship, they save labour costs for the employer (part of the contributions levied on gross earnings) and save costs for the employee (part of the personal income tax), while the employer remains legal (labour inspection checks the existence of work contracts and the payment of the national guaranteed minimum wage) and the employee retains his/her entitlement for most social security benefits. If the employment and income are totally informal and unemployed or inactive people registered as such are involved, they also remain mostly among those entitled to social security benefits.

When the entire production of goods and services or part thereof are kept informal, taxes levied on the production (general turnover tax) and on the entrepreneur can also be saved.

2.3. The foundations of the informal sector

As for the foundations of the hidden economy or the informal sector, the following major causes can be identified:

- (i) Economic transformation resulted in a sharp decline in employment in the first half of the 1990s. In 1997, of the total population of 10 million, according to calculations based on the ILO’s methodology, 7.8 million could be qualified as of working age. Among them, 3.6 million (46.7 per cent) were employed, 0.4 million registered unemployed and 3.8 million inactive. In the last group 1.6 million were of pension age, while 2.2 million of working age.⁵
- (ii) Among the 3.6 million employed, only 2.99 million were engaged in a “classical” employment relationship, 69,000 were members of cooperatives, 137,000 members of joint (small) undertakings, 373,000 individual entrepreneurs and 41,000 were assisting family members.⁶
- (iii) Real earnings sharply declined in the 1990s, with drops occurring each year in the 1990s except 1994 and 1997. The real value of the national guaranteed minimum wage has suffered similar losses: drops occurred each year except for 1990 and 1997.⁷ As for actual labour costs in 1992-95, average industrial labour costs (for a full working hour per employee) amounted to 3 ECU compared with 27.8 ECU in the western parts of Germany.⁸
- (iv) There has been a growing gap between the national guaranteed net minimum wages and the minimum costs of living. Their ratio was 84.4 per cent in 1990 decreasing to 70.5 per cent in 1994. Minimum unemployment benefits, unrelated to minimum wages, have kept lagging behind the minimum costs of living to an even greater extent.
- (v) Gross earnings have remained subject to heavy duties levied on them, such as contributions to the social security (health and pension insurance) funds and to the labour market fund (amounting to about 50 per cent of gross earnings of which the greater part has to be paid by the employer) and personal income tax (which has to be paid by the employee). It should be noted that a portion of the minimum wage is already taxable.

2.4. The actors in the informal sector

The existence of the vast “hidden economy” or informal sector in Hungary is based on “the joint interest” of the unemployed, the inactive, individual entrepreneurs, of employees and

employers to survive by increasing their net income via the evasion of at least part of the duties and taxes levied on them. One can even risk the statement that most of the population is related, in one way or another, either as participant or a client, to the informal sector. Four major groups of its participants, however, can be distinguished:

- individual entrepreneurs as well as employers and employees of small undertakings (especially in sectors like construction, retail trade and catering, household services, etc.);
- the economically inactive population;
- the unemployed, especially the long-term unemployed in economically depressed regions where the rate of unemployment has consistently been high; and
- foreigners, entering the country mostly as “tourists”, without a work permit.

As reported by the trade unions, the younger generations of the population harbour far less reservations about being engaged in totally informal (black) forms of employment than the older generations who are sensitive to the prospects of pension and health care. The choice, however, is open to them only in regions where legal (or semi-legal) jobs are available. It is reported that in economically depressed areas such as in north-east Hungary, there are settlements where there seem to exist practically no other forms of employment than “black”. The survival of the families in such areas is often based on a combination of social benefits (unemployment benefits, income support, childcare allowance, etc.), occasional informal work and small-scale farming. We have no evidence at our disposal that engagement in the informal sector would be differentiated on the basis of gender.

Income from the informal sector is most probably much differentiated: for some groups it covers only survival, while for others it ensures higher than average earnings.

2.5. Contract labour

Tendencies to make the labour market and employment more flexible as a concomitant of globalization contribute to the appearance of certain legal forms of work which tend to promote undeclared, or partly undeclared, arrangements.

In Hungary, work for an employer is carried out within the legal framework of an employment relationship. Such a relationship can be

established on the basis of the Labour Code (1992) in business organizations, of the Public Servants' and Civil Service Acts (1992) in public and civil services, and of the Armed Forces Act in the military and other armed forces. The pieces of legislation referred to regulate the rights and obligations of the employees arising from employment relationship.

In recent years, new legal work forms beyond the employment relationship have appeared in great numbers on the scene, their legal foundation grounded in civil law rather than in labour law. In the same way that civil law contracts instead of work contracts are drawn up with individual entrepreneurs to carry out certain activities, civil law contracts are drawn up with individuals to perform a definite task. Contract work has rapidly grown: it is believed (although reliable empirical evidence is lacking) that a large part of Hungary's several hundred thousand individual entrepreneurs are employees “disguised” as entrepreneurs for the “glory” of the emerging market economy.

The major motivation underlying this trend is once again to evade (or reduce) tax burdens and, from the point of the employer, labour costs.

2.6. Dilemmas related to the informal sector

The existence of Hungary's informal sector is closely related to the employment situation, depressed level of wages and social benefits (compared with the minimum costs of living), the heavy duties levied on earnings and income, and the inefficiency of state administration to enforce laws and regulations. Traditions which date back even to the 1970s and 1980s may also have exercised some impact.

The major difficulty in addressing the issue, reducing it to an acceptable 4-5 per cent of GDP, lies in the broad alliance of strong interests to maintain it in place. It is true, on one hand, that it undermines public services provided by the State by cutting their financial resources; weakens the social protection of the working population; contradicts the fairness of competition as it puts semi-legal or illegal entrepreneurs employers into an advantageous position; aggravates falling trade union membership; but at the same time it is also true that it provides employment, contributes to the survival of the most vulnerable groups of labour who have lost their positions in the labour market, and compensates other groups for losses in “official” real earnings.

That is why the trade unions too, when faced with it, have “divided opinions”: they are opposed to informal employment, but tacitly tolerate and accept its existence.

3. Trade union actions in the informal sector

3.1. Trade unions and institutions have their impact felt

Hungarian trade unions, at national level, are highly pluralized. The National Tripartite Council for the Reconciliation of Interests (CRI), in its workers’ negotiating group, has six trade union confederations as members.

The six trade union confederations are very different in their size, representativity, coverage and history. The biggest ones with several hundred thousand members, are MSZOSZ (National Confederation of Hungarian Trade Unions), SZEF (Trade Unions Cooperation Forum) and ASZSZ (Autonomous Trade Unions’ Confederation). MSZOSZ has a national coverage in the (mostly privatized) business sector of the national economy; ASZSZ has the chemical workers’ union as its backbone, along with unions in several public utility branches; SZEF unites employees in public services, its most important members being health workers’ and teachers’ unions. The League (Democratic League of Independent Trade Unions) has a couple of organizations in public utility companies, mostly in transport and education. ÉSZT (Intellectual Workers’ Trade Union Confederation) is a union of higher education personnel and researchers. As for the “dividing” line between “old” (successor) and “newly formed” unions, MSZOSZ and ASZSZ, and to some extent ASZSZ, can be looked upon as successors to the past National Council of Trade Unions (SZOT), the monolithic trade union confederation of the socialist period, while the League and MOSZ (the National Association of Workers’ Councils) are made up of newly formed unions, the same obtaining in the ranks of ASZSZ and ÉSZT. The level of unionization is estimated to be 20-40 per cent: it is higher in public services and lower in business organizations, especially in small and medium-sized enterprises (SMEs) where the unions’ presence is very rare.⁹

The unions’ ability to exert pressure on employers and Government is very different too: it is most probably strongest in the public utility branches (transport, electricity, etc.) and public services (education and health).

Hungary has developed a relatively well-functioning system of institutions at national level based on the involvement of unions and employers, an effort started in 1988-89.¹⁰

The national institutions include:

- the Tripartite Council for the Reconciliation of Interests (established in 1988). It is the stage for national-level wage bargaining and agreements. It takes decisions as to the national guaranteed wage, adopts recommendations with regard to the growth of gross earnings in business organizations, and is also a forum for pre-legislative consultation and agreements (with regard to labour legislation, draft taxation laws, the budget, etc.);
- the Bipartite Self-Governments of Health and Pension Insurance, established in 1993 to take care of the health and pension insurance funds, and dissolved in 1998; and
- the Tripartite Steering Committee of the Labour Market Fund. In 1996 it took over the CRI’s functions in the control of the Labour Market Fund out of which employment policies are financed.

Institutions at other levels include:

- trade unions, as the delegates of the national confederations, are present in the county-level Labour Market Councils which have an important role in the implementation of active employment policy programmes; and
- the trade unions are one of the two partners of sectoral- and enterprise-level collective bargaining and agreements; in business organizations the former cover roughly 10 per cent, while the latter roughly 30 per cent of the workers.

3.2. Trade unions and public policy formulation and implementation

3.2.1. Trade unions and income policies

Heavy burdens levied on earnings and income by the State and the existence of a large informal sector, in the view of most experts, are closely interrelated. To set contributions and taxes as well as related legislation belongs to the authority of Parliament. Still, it has been a generally accepted practice for the past ten years that they be annually discussed in the national tripartite council (CRI) with the trade unions and employers.

The CRI does not negotiate contributions and taxes separately but usually as part of income policy “packages”, including, other than contributions and taxes, the guaranteed minimum wage, recommendations for the growth of gross earnings in the business organizations, social policy issues and other items related to the budget of the coming year. On that basis, several tripartite agreements have been concluded in the 1990s – in 1991, 1992, 1993 and in 1994 and 1997.¹¹ The years in which negotiations failed to produce such agreements, or produced more limited ones, were the years of macroeconomic stabilization.

The Government, unions and employers have always had the common conviction that contributions and taxes should be reduced. In practice, however, the Government has had no other choice than to maintain them in the context of GDP and real-income drop in most years of the 1990s so as to be in a position to finance public services and to meet the international debt service, a burden which was somewhat eased by revenues from privatization. The trade unions, in their turn, have been in favour of tax reductions, but they also endeavoured to maintain social benefits. Public service unions, primarily the SZEF, were aware of the relationship between the level of state revenues and public service wages and employment. In addition, unions, together with employers, were part of the Bipartite Social (Pension and Health) Insurance Self-Governments in control of the social insurance funds financed by employer and employees’ contributions. In these self-government institutions MSZOSZ had a decisive role, which explains why tripartite “income policy package” agreements did not exert much of an impact on the general level of contributions and taxes.

The evasion of contributions and taxes has been a common concern for Government, workers and employers, especially in case of the contributions to the social insurance funds out of which the Health Insurance Fund has consistently had serious deficits for the past years met by the state budget. As a partial remedy, the tripartite CRI reluctantly approved the Government’s proposal in 1996 to introduce a so-called minimum contribution to the health insurance fund, targeting principally enterprises employing workers in the lowest wage brackets or close to the guaranteed minimum wage level. It was, and still is, much debated whether this minimum contribution to health insurance has had positive results in terms of containing tax evasion, or, on the contrary, it has

provided an additional incentive for employers and employees to move over to the informal sector. For the past years it has become obvious that profound changes in contributions and taxation cannot be realized without a fundamental reform of the health service and public services and their financing in general. The only important achievement so far has been the start of pension reform discussed and also approved by the unions and employers in the CRI in the spring of 1997.

Apart from their solidarity, the Hungarian trade unions’ approach towards contributions to social insurance and taxation has been rather differentiated, as illustrated by the preceding argument. The differences are also highlighted by the CRI negotiations of the past few years with regard to personal income taxation scales. With a large part of its membership in the lower earning brackets, the MSZOSZ has made consistent efforts to reshape these scales in such a way that those in the lower wage brackets could be the beneficiaries of such changes. One such instance occurred at the end of 1995 when Finance Minister Bokros had long discussions with the CRI about possible personal income taxation scales, yielding no results. The ASZSZ, with a membership mostly in the higher earning brackets, have been more reserved approach on this issue. The big public service confederation, the SZEF, has had a similarly reserved attitude as its membership is sharply divided between the lower (e.g. health workers) and higher (state administration) earning brackets.

3.2.2. *Trade unions and the guaranteed minimum wage*

In Hungary, it is believed to be a widespread practice on the part of employers, mostly in small enterprises, to hire workers at the minimum wage, as indicated in the work contract and to complete their earnings legally or illegally by additional payments not recorded in the work contract. If the additional payment is legal, it is based on a civil law contract, if not it takes the form of paying “from pocket to pocket” as is said in local parlance.

In Hungary, the national minimum wage, set by the Interest Reconciliation Council,¹² covers all those in employment relationships in both the private and public sectors.

Trade unions have consistently been agitating for an increase in the minimum wage for the past ten years to improve the income positions of the most vulnerable groups of labour in the lowest wage brackets, given the obvious social

policy mission of the guaranteed minimum wage. Employers, especially in the private sector, have tried to constrain any growth, referring as they do to the negative impact of growing wage costs on competitiveness and employment, as well as to the sensitiveness of certain traditionally low-wage sectors (such as agriculture). The Government, as the indirect employer of similar traditionally low-wage public services, tried to slow down minimum wage growth for many years in the early and mid-1990s owing to budgetary constraints. As minimum salaries in the public services started to exceed the national guaranteed minimum wage, for the first time occurring in 1997, the Government's "social sensitiveness" has become more acute: in national wage negotiations for 1998 both unions and Government supported the proposal for an above-average improvement in the guaranteed minimum wage.

MSZOSZ – the biggest trade union grouping – has had its own proposal for regulating the guaranteed minimum wage. It goes back to the early 1990s and is repeated in each new round of annual national-level wage negotiations. It proposes in essence to introduce a "three-grade minimum wage" instead of the present one-grade minimum wage, differentiating on the basis of the level of qualification of the workers. The first grade, would be on par with the present one, covering unskilled labour, while the second and third grades would be higher and would cover skilled workers and professionals respectively. The confederation argues that the three-grade minimum wage would have a positive impact on informal (illegal) employment: by radically increasing guaranteed minimum wages for qualified workers, it follows that it would reduce the dimensions of present practices of combining payments of minimum wages on the basis of work contracts and additional payments outside of work contracts. So far, the employers of the tripartite council have consistently rejected the MSZOSZ proposal.

While the unions seem to be united in their approach to the guaranteed minimum wage and maintain their solidarity, their stances on this question are different. While the commitments of MSZOSZ are obvious, other unions are less keen with regard to proposals in favour of the growth and structure of the guaranteed minimum wage, on at least two grounds. Firstly, their membership is drawn mostly from the higher wage sectors where the national minimum wage is less important. Secondly, these workers have strong bargaining positions and wages higher than the national minimum

may also be an item included in enterprise and sectoral level collective contracts. These conditions may offer an explanation for the more reserved attitude in the past of ASZSZ in the national-level negotiations on the guaranteed minimum wage. Public service unions have also lost interest since minimum salaries have started to exceed the national guaranteed minimum wage in their sector and ceased to function as a point of reference for them.

3.2.3. Trade unions and labour inspection

In the autumn of 1996, the Hungarian Parliament adopted an Act on Labour Inspection. It pinpointed the primary targets of labour inspection – the implementation of regulations concerning the establishment of the employment relationship and respect for the fundamental rights of trade unions. The Act extended the field of authority of labour inspectors and raised the upper limit of fines labour inspectors could impose on employers violating the law (to 3 million Hungarian forints¹³ in case of repeated violations of several legal provisions perpetrated against a great number of employees). This legislation was based on a long series of negotiations in the CRI as a result of which agreement had been reached on its contents. As a further follow-up of this legislation, a reinforcement of the organization of labour inspection was undertaken, one outcome of which was to double the number of inspectors in the first half of the following year (1997).

As for the Act's mission to be an instrument in the struggle against "black" employment, all three parties had a single common interest, as was repeatedly formulated in the debate. Black employment – from the employers' point of view – undermined fair competition in the market, as some employers could reduce their wage costs by evading duties levied on earnings; and from the unions' point of view, it reduced the number of jobs available for their membership by undermining legal employment. At the same time, the Government is at odds with job losses and ensuing losses in state revenues. In this sense, the Act of Labour Inspection and the reinforcement of its organization was a "child of tripartism", regardless of the differences of emphasis in the approach of the individual parties.

As for the implementation of the Act on Labour Inspection, the social partners have been much more divided. The Government, starting out from widely known western European

examples, called for close cooperation in this process. A proposal prepared for the CRI in the summer of 1997, urged cooperation in the following fields: (1) the dissemination of information about legal regulations; (2) the dissemination of information about problems discovered by labour inspection; (3) making public practices of “black” employment; and (4) working out programmes in sectors where “black” employment was primarily concentrated (such as commerce or construction). It was also suggested to set up an advisory body with the participation of unions and employers to assist the work of the National Labour Safety and Labour Inspection Agency (OMMF) and the Minister of Labour. These initiatives by the Government met with reservations on the part of the social partners: they restricted their cooperation to the annual discussion in the CRI of the report of the National Labour Safety and Labour Inspection Agency¹⁴ on its experiences in the implementation of the Labour Inspection Act.

In the spring of 1998, the Government initiated an informal expert meeting with the social partners to discuss the possibilities of joint actions once again. This time an informal agreement was reached that such cooperation could be promoted at local (county) level and it was decided that channels for cooperation be pursued on an experimental basis in the three regions (Baranya, Szolnok and Fejér).

3.2.4. *Trade unions and contract labour*

The trade unions are opposed to most forms of work activities based on civil law contracts, for at least two major reasons: firstly, because such arrangements, or most of them, tend to undermine the legal guarantees of the protection of workers; secondly, workers engaged in such activities are unlikely to maintain their trade union membership and remain part of organized labour. As the phenomenon is relatively new, its systematic discussion has just started, and involves the participation of the trade unions experts and leaders. For this purpose, an expert meeting was organized in the spring of 1998 by the Ministry of Labour.¹⁵ In terms of trade union response, the following appraisal may be ventured:

- (i) The trade unions are exerting pressure on the Government and labour inspection to stand up firmly against “disguised employment relationships” calling on the authority of the Labour Inspection Act.

This piece of legislation permits types of work based on entrepreneurial contracts and individual assignments, but it makes it incumbent on the labour inspectors to expose cases when these civil law contracts disguise employment relationships which are considered unlawful and impede application of the necessary sanctions. An obvious weak spot in the law is that it does not provide any definition of employment relationship.¹⁶

Labour inspectors have discovered some cases of obvious disguised employment relationships: for example, in a bakery in eastern Hungary, “wage-earner” bakers and “entrepreneur” bakers were found working side by side in the same workshops using the equipment and materials of the owner-employer. Such clear cases are, however, relatively rare.

- (ii) Trade unions pronounce in favour of the limitation or elimination of types of work based on civil law contracts. The best known and widely publicized debate on this issue took place between the Trade Union of Public Collection and Public Education Workers (KKDSZ), a militant well-organized small union of the employees of public libraries, museums, cultural centres etc., and the Ministry of Public Education in 1996-97, in connection with the drafting and adoption of the Public Collection Act.

The union, in a strong lobbying position both in Government and Parliament at that time, urged “guarantees of employment” for workers in public collections and public cultural institutions: in its interpretation, such guarantees could be provided by a legal provision permitting only an employment relationship on the basis of the Public Servants’ Act in this field. The fulfilment of this demand, however, threatened the institutions with serious financial difficulties and rigidities in running flexible programmes. Small institutions employ accountants, janitors, guards as well as professionals running fixed-term programmes on the basis of civil law contracts. The debate’s dimensions can be characterized by the fact that in a critical moment even the Chairman of the Parliament’s Cultural Committee, a supporter of the trade union’s demands, tendered his resignation when the chance of a positive outcome seemed remote. Eventually, the solution turned out to be a compromise which laid

down an obligation to employ public servants to perform activities considered fundamental for the functioning of the institutions concerned.

It still remains an open question for both unions and the Government how to treat the problem as outlined. The Workers' Councils urge that legal protection by the Labour Code be extended to cover contract labour. There are examples of collective contracts regulating this matter (e.g. Hungarian State Railways).¹⁷

3.3. Trade union actions geared to their membership and to employers

Although most trade unions in their action programmes put forward proposals for promoting legal employment and fighting against illegal/informal/black employment, there is at the same time a general absence of vigorous and coordinated action among their membership and in their contacts with employers.

It has been said by trade union leaders and experts that the trade unions' approach can be best characterized as "silent meditation", since "it is difficult for the unions to define their relationship" to the informal sector, owing to the fact that the very workers who lose their legal status as workers and join the informal sector "are lost to the trade unions". Therefore a major challenge for the unions is their absence from those fields of the national economy and from those groups of the population where informal employment is most widespread (SMEs, individual entrepreneurs, the unemployed, economically inactive people, etc.).¹⁸

While older generations of workers seem to be much more attached to legal employment and to the unions, anxious to secure their health and pension prospects, it is a "stillborn effort" to try to convince younger workers that "they risk their future and they lose their protection" in the informal sector. A related problem is the workers' extremely poor knowledge of labour legislation and workers' rights, and the gaps in such knowledge cannot be compensated by a few trade union training courses. On the contrary, employers hire the best legal advisers and human resources managers to set the terms and conditions of the employment relationship so as to fit their best interests, notwithstanding the labour law provisions.

The classical labour relations institutions, such as enterprise- and sectoral-level collective bargaining and agreements, have proved to be

mostly inadequate to deal with the problems raised by the informal sector. The weakness of employers' organizations and their poor co-operation, beyond the lip-service they pay to the fight against illegal employment, have been singled out by the unions as responsible for the present state of affairs.

According to trade union reports in the textile industry, employers had been consistently complaining about "unfair competition" and had been urging trade unions to stand up against informal (illegal) employment. As a response, the trade unions proposed a joint union-employer initiative to demand "targeted investigations" by the labour inspection authorities. The employers, however, quickly withdrew and refused to be part of such an initiative. Their major argument was that "labour inspection preferred carrying out investigations among legal employers, thus adding to their burdens, and failed to pursue illegal ones".

It was also noted that a number of middle managers in the textile industry have their own "garage workshops" based on old machines and are engaged in illegal employment.

For trade unions in the business sector, it is often difficult to ensure the cooperation of employers in collective bargaining, even on fundamental issues such as wages and "there is no hope to negotiate about such complex and sensitive problems as informal employment". Promoting collective bargaining and agreements at sectoral level could help to combat evils in the informal sector. All trade union representatives agreed that it would be worthwhile to extend multi-employer agreements to sectors.¹⁹

The representative of one of the confederations reported on the widespread practice of "informal collective bargaining" and the trade unions' dilemma of how to tackle the issue.

We are not aware, for our part, of the existence of any organization of workers in the informal sector.

Among NGOs the organizations of the unemployed have the closest links to those potentially concerned.

3.4. The strengths and weaknesses of trade union action

Trade unions have been highly active in public policy formulation and implementation bearing on the informal sector. The results of their efforts, however, are still subject to controversy. All the same, their efforts may be appraised as follows:

- (i) Trade unions have been active participants in policy formulation and drafting of legislation on taxation and contributions to the social (health and pension) as well as the unemployment insurance funds. While, in principle, they have been in favour of reductions, in practice they were in favour of maintaining the levies on earnings owing to their commitment to the maintenance of social benefits, their presence in the Self-Governments of Health and Pension Insurance and, in the case of public service unions, their commitment to the maintenance of employment in public services.
- (ii) Trade unions have made repeated efforts to raise the guaranteed and legally binding national minimum wage. There has been put to the floor a much debated proposal by a trade union confederation, MSZOSZ, referred to earlier, to introduce a three-grade, in fact a higher, guaranteed minimum wage as a possible means to reduce informal employment. This proposal, however, could not be implemented although it has had the support of the Government because it has consistently been rejected by the employers.
- (iii) Trade unions have initiated and firmly supported the reinforcement of labour inspection, both by legislation and other means, in order to ensure the implementation of labour law, and at the same time contain and reduce illegal employment. As a result of other efforts on their part, a new Labour Inspection Act was passed in 1996 and the organization of labour inspection consolidated in 1997. The question remained, however, whether the trade unions would be willing and able to participate in the actual implementation of the Labour Inspection Act and in the promotion of the practical work involved in labour inspection.
- (iv) Trade unions seem to be aware of the danger contract labour – work activities carried out on the basis of civil law contracts – involves in terms of eroding workers' protection and trade union membership. To put a brake on, or at least slow down, the swift spread of such practices, trade unions have tried to exert pressure on the Government to build up legal defences and make use of labour inspection. Apart from one or two notable exceptions, however, it is not known what efforts have been made by the unions to counteract these practices in contacts with their members and employers.

While trade unions have had an active and well-documented role in public policy formulation and implementation bearing on the informal sector at national level, they appear to be somewhat perplexed when faced with the definite forms assumed by informal employment in their everyday activities at the enterprises and among their membership. Perhaps it is their awareness of the complexity of the problems involved, of the importance of the informal sector in providing employment and income – and very frequently complementary income – for masses of working people which somewhat explains the trade unions' "mild" and "soft" approach to the problem, as owned to by the trade unions themselves.

4. Workers' protection and the role of international labour standards

The most sensitive issue in the area of the informal sector – undeclared work – is the protection of workers and workers' rights. Informal means unrecorded, unregistered and unregulated, i.e. situated outside of the scope of legal regulations, including labour law. From this point of view work activities related to the informal sector can be classified into at least three major categories:

- (i) Undeclared employment, i.e. totally informal or, as it is commonly called, "black" employment.
Workers engaged in such activities have no legal protection under labour law, although many of them qualify for a social protection once they are declared as unemployed persons, pensioners, etc.
- (ii) Declared employment and partly declared/party undeclared income.
Legal protection covers all those elements of the employment relationship that are declared. As for payments, it guarantees that the workers get the national guaranteed minimum wage if it is included in the work contract but does not and cannot provide any guarantee for "payments from pocket to pocket". In case of the insolvency of the employer the workers have a good chance of receiving their payment if fixed in the work contract from the Labour Market Fund, but they have no chance whatsoever of getting more.
Workers have access to social security services.
- (iii) Contract work, i.e. types of work performed on the basis of civil law contracts.

Legally, workers are not perceived as workers in the strict sense of the term, but as one of the civil partners – usually entrepreneurs – of a civil law contract and enjoy the protection of civil law instead of labour law. They will only enjoy social protection if they pay for it as entrepreneurs.

What does this mean?

No regulations are in place with regard to working time, payment, termination of employment, etc. While the employer is obliged to pay at least the guaranteed minimum wage in the case of an employment relationship based on the Labour Code, or the minimum salary (which is slightly higher) when the employment relationship is based on the Public Servants' Act, in the case of civil law contracts, no such obligation exists. The individual worker has to take personal responsibility for his or her social security and he or she is excluded from unemployment benefits. In principle, civil law contracts may include even stronger protection for workers than labour legislation, as is the case with managerial contracts, but these instances extremely rare, taking into account the imbalance in the positions of the two parties involved.

What is the impact of informal or semi-informal employment on the implementation of core international labour standards?

It is extremely difficult to ascertain.

The labour inspection authority is empowered by the Labour Inspection Act to control the implementation of certain essential rights of workers (e.g. freedom of association, non-discrimination in employment). Its investigations are based on complaints usually lodged by trade unions functioning in some legal enterprises run by employers. The labour inspection authority has limited capacity: it is engaged annually in 25,000 to 30,000 investigations while the number of corporate and individual undertakings amounts to almost 1 million in the country.

We have no knowledge of workers' organizations in the informal sector and on the basis of the information at our disposal, trade union presence is also extremely rare in the SMEs. It remains an open and unanswered question whether this state of affairs reflects the free choice of the workers not to unite in unions and be engaged in collective bargaining, or whether it is the tacit expectation of employers in this field not to have trade unions on their premises.

In the past few years, Hungary has had a couple of rioting cases involving violations of trade union rights, mostly in middle-sized enterprises run by foreign employers. Apart from these cases, we are not aware of any other violations of fundamental workers' rights (e.g. the prohibition of discrimination in employment, or any practices involving child labour or forced labour).²⁰

5. Conclusions for further trade union action

Having gauged the dimensions, foundations and complexity as well as heterogeneity of the "hidden" or informal sector in Hungary, it is virtually impossible to arrive at definite and practical proposals or guidelines for further trade union action.

Even so, it would be well worth considering the following conclusions of an expert meeting which addressed the question:

- trade unions should pay more attention to the informal sector, its various forms of manifestation, and its impact on workers;
- trade unions should make more effective efforts not to lose the workers who lost their jobs and became absorbed in the informal sector;
- special attention should be paid to young workers;
- more education is needed in the areas of labour legislation and workers' rights;
- legislation should provide the protection of labour law for workers employed under civil law contracts;
- collective bargaining and agreements may contribute to the limitation and reduction of employment in the informal sector and should be promoted;
- better cooperation with employers and employers' associations is indispensable if trade union efforts are to be more effective at national, sectoral as well as enterprise level;
- the extension of multi-employer collective contracts to the relevant sector is a possible means to regulate the situation;
- it is necessary to bring Hungarian wage levels closer – in keeping with the performance of the national economy – to the European wage levels: the only effective deterrent to keep workers from turning to informal activities;

- reducing taxes and contributions on wages would be the only effective means to induce employers not to maintain informal activities; and
- labour inspection can have an important, albeit limited, role, if effective, in informal activities into the organized sector.

Notes

¹ In preparing this study, the author has drawn on the proceedings of a meeting of trade union leaders and experts (held on 25 November 1998 at the Labour Research Institute in Budapest involving the following participants: T. Wittich, Vice-President, MSOSZ, (National Association of Hungarian Trade Unions); J. Borsik, Co-Chairman, ASZSZ (Autonomous Trade Unions' Confederation); E. Szabó, President, SZEF (Trade Unions' Cooperation Forum); L. Horváth, Vice-President, LIGA (Democratic League of Independent Trade Unions); M. Révész, ÉSZT (Intellectual Workers' Trade Union Confederation); J. Iványi and M. Pásztor, MOSZ (National Alliance of Workers' Councils); I. Ékes, Trade Unions' Institute of Social and Economic Research; E. Berki, Senior Researcher, and L. Héthy, Director, Labour Research Institute.

² While the ILO admits that there is no definition of the informal sector based on "universal agreement", it underlines that it is "misleading to equate the underground economy of certain developed countries with the informal sector. Where an underground economy exists, it is generally constituted in order to evade taxes, control and regulation, sometimes perhaps because control and regulation are too bureaucratic and inefficient; but rarely is it a phenomenon associated with survival strategies of the poor as in developing countries. See *The dilemma of the informal sector*, Report of the Director-General, International Labour Conference, 78th Session, 1991, ILO, Geneva, 1991 and *Industrial relations in the informal sector*, *World Labour Report* (Industrial Relations, Democracy and Social Stability 1997-98), ILO, Geneva, 1997.

³ See *On Undeclared Work. Communication from the Commission*, COM (98) 219 final, Office for Official Publications of the European Communities, Luxembourg, 1998.

⁴ See Héthy, L. 1983. "The secondary economy in Hungary: its impact on industrial work and Government efforts to control it", in *Changing perceptions of work in industrialized countries: their effect on and implications for industrial relations*, Research Series No. 77, International Institute for Labour Studies, ILO, Geneva.

⁵ The most widely quoted estimates are drawn from a research project initiated by the Blue Ribbon Committee and supported by the OECD, the Canadian Government, the GKI Economic Research Company (Budapest) and the Hungarian Central Statistical Office; Árvay, J.; Vértes, A. 1993. *Summary Report on the major findings of the project entitled "Research Work on the Assessment of the Real Performance of the Private Sector in Hungary"*, Budapest, Dec. According to its estimations the hidden economy's size was 29.6 per cent of the GDP—of which 11.7 per cent was included and 17.9 per cent was not included in the official GDP.

⁶ Labour Research Institute. 1998. *Main trends in labour demand and supply*, Yearly Labour Market Report, Budapest, Apr.

⁷ Ibid.

⁸ See Héthy, L. 1998. "A megállaposásos bérpolitika Magyarországon", (Negotiated wage policies in Hungary) *Közgazdasági Szemle*, Budapest, Jan.

⁹ See Lindnerné Eperjesi, E. 1997. "A magyarországi munkaerőköltségek alakulása az EU csatlakozás tükrében" (Labour costs in Hungary in the context of its integration into the EU), I-II, Európai Tükör, Budapest.

¹⁰ For a detailed description of trade union characteristics and representativity, see Ladó, M. 1994. *Workers' and employers' interests as they are represented in the changing industrial relations in Hungary*, UCEMET, Working Papers, No. 3, Krakow.

¹¹ For a detailed description of the institutions see *National tripartite structures in the labour field in Hungary*, Ministry of Labour, Budapest, 1997. For CRI and related institutions, see Ladó, M; Tóth F. (eds.). 1996. *The State of Reconciliation of Interests 1990-1994*, Helyzetképez érdekegyeztetésről, 1990-1994. ET Titkárság – PHARE Társadalmi Párbeszéd Projekt, Budapest.

¹² A typical example for such deals is the 1992 November CRI agreement. For details see Héthy, L. 1995. "Tripartism and public policy formulation in Hungary", in Kyloh, R. (ed.). *Tripartism on trial: tripartite consultations and negotiations in Central and Eastern Europe*, ILO-CEET, ILO, Geneva.

¹³ The procedure for negotiating and setting it is as follows: (1) The Tripartite National Council for the Reconciliation of Interests is entitled by legislation under the Labour Code, 1992, to fix the national guaranteed minimum wage. (2) When an agreement is concluded concerning the guaranteed minimum wage, usually once a year, it is automatically turned into a Government decree with legal binding force. (The tripartite CRI does not have legislative powers.)

¹⁴ Roughly the equivalent of 15,000 US dollars.

¹⁵ In Hungary, the National Labour Safety and Labour Inspection Agency (OMMF) is an independent governmental organization under the supervision of the Minister of Labour (now also the Minister of Social and Family Affairs). It has local units in Budapest and in the 19 regions. The Agency itself has several decades of long tradition in safety supervision, but an extremely short history in labour inspection. Some of its labour inspectors belonged to the labour market service and controlled jobs in undertakings performed by persons declared as unemployed claiming unemployment benefits.

¹⁶ See "Munkavégzés különböző jogviszonyok keretében: átrendeződés vagy átváltás? (Work activities in various legal frameworks: restructuring or transformation?)", in Ónodi, I. (ed.). 1998. *A munka világa '98. Munkaügyi Kapcsolatok Társasága*, Munkaügyi Kutatóintézet, Budapest.

¹⁷ Ibid.

¹⁸ In the Hungarian State Railways the collective contract prohibits the employment of locomotive drivers on the basis of civil law contracts.

¹⁹ In recent years the Workers' Councils have made an attempt to organize small (self-employed) entrepreneurs. The League has tried to promote the re-employment of unemployed persons by trying to find jobs for them, but was horrified to learn that most jobs offered were "informal".

²⁰ On the basis of the provisions of the Labour Code, the Minister of Labour can extend collective contracts concluded by representative unions and employers (employers' associations) to the whole sector.

²¹ Hungary has ratified all seven core international labour Conventions and supported the adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998). It is also in the process of ratifying the Social Charter of the Council of Europe.