Hungary's experiment in legalizing casual employment

By Róbert TÉSITS* and Endre SZENORADSZKI**

Abstract. *Hungary's 1997 Casual Employment Act was originally meant to formalize ad hoc employment relationships entered into by private individual employers through simplified administrative procedures. After being widely abused, however, this flexible regulatory framework was eventually opened up to all employers, with a higher ceiling on the number of days workable on this basis, drastically reduced social security contributions and strong tax incentives. The aim was then to reduce unemployment and the incidence of illegal work by stretching the boundaries of formal employment, but neither of these objectives was attained. Instead, the authors argue, the attempted flexicurity has greatly increased workers' vulnerability.*

One of a number of atypical forms of employment, casual work has rapidly spread across Hungary since 2002, when the 1997 Casual Employment Act (No. 74) was amended, radically reducing the tax and social security contributions payable on this form of employment. The aim of this amendment – and another passed in 2005 – was to reduce illegal work by making legal casual employment easier and cheaper for employers to administer. As a result, the number of people issued with a so-called Casual Employee's Booklet (CEB) rose markedly, especially in the less developed regions of the country. By the end of 2006, 418,000 people had taken out a CEB. At the same time, however, there was a gradual increase in the number of registered unemployed, as employers increasingly resorted to employing workers on a casual basis, moving from typical forms of employment to one much more favourable to them. It is indeed no wonder that casual employment suddenly became so popular, since the type of

* Associate professor, Centre for Labour Market and Equal Opportunities, University of Pécs, email: tesits@gamma.ttk.pte.hu. ** Labour expert, email: Szenoradszki@LAB.HU.

labour contract and the administration involved became much simpler: no holidays, sickness benefit, or severance pay need to be paid (except in the case of an accident); casual workers do not establish trade unions; and dismissal is unproblematic.

However, according to the data collected by the Hungarian Labour Inspectorate, there has been no decline in the extent of illegal work – indeed it has increased in recent years. So what has actually happened in the Hungarian labour market in this respect? In an attempt to answer this question, this paper analyses national data and argues that casual employment has greatly increased workers' vulnerability rather than achieving the greater flexibility sought.

Regulatory framework

In order to reduce Hungary's high unemployment, to establish more flexible conditions of employment and to combat illegal forms of work, Parliament passed Act No. 1997/74 on the use of the CEB and on the simplified payment of applicable taxes and social security contributions; this law came into force on 1 September 1997.

This legislation originally applied only to employers who were natural persons, thus excluding for-profit companies and public enterprises. The provisions of the Act largely met the requirements of the Labour Code. Yet early experience of its application revealed that many employers were employing holders of the CEB, although they were not entitled to do so. Already in the first year of its application, employers thus began applying pressure for the scope of the Act to be extended to their advantage. Employment with a CEB was indeed subject to strict conditions: employment by the same employer for a maximum of 15 days within a month, or 90 days within a year; employment for no more than five consecutive calendar days; and an annual limit of 120 days on casual employment by two or more employers, whether simultaneously or serially.

A 1999 amendment extended the application of the Act to employers other than natural persons, and granted them exemptions from personal income tax up to a given income limit. A further amendment in September 2002 significantly reduced the cost of the "tax stamps" that employers have to purchase (especially for casual workers registered as unemployed) and offered further subsidies to employers (table 1). Then, in 2005, Act No. 2005/71 extended the CEB option to further groups of workers, and put an end to the reduced cost of tax stamps as from 2006. But if the employer is a natural person (employing, say, a gardener, cleaner, private tutor, etc.), her/his taxable income may be reduced by 75 per cent of the value of the tax stamp. Employment on this basis must now be registered in different colour-coded sections of the new CEB (now known as the Blue Book), according to the type of employer (enterprise, private individual, parastatal organization or agricultural employer). Previously, casual workers had been allowed to work for up to 120 days per annum, but as from 1 August 2005, the maximum was extended to 200 days, provided they worked for at least three natural persons or for a parastatal organization.

Table 1. Values of tax stamps as from 1 September 2002 (parentheses for workers registered as unemployed at a job centre)

Wage in Hungarian forints/day	Tax stamp in Hungarian forints/day
1,200–1,599	500 (200)
1,600–2,099	800 (400)
2,100–2,599	1,000 (500)
2,600–3,099	1,200 (600)
3,100–4,000	1,500 (800)

Source: Act No. 23 of 2002, section 21(3).

Table 2. Values of tax stamps as from 1 January 2006 (for employing a worker registered as unemployed at a job centre)

Wage in Hungarian forints/day	Tax stamp in Hungarian forints/day
1,800–2,399	400
2,440–2,999	700
3,000–3,599	900
3,600–4,600	1,100

Source: Act No. 71 of 2005.

Conditions of employment

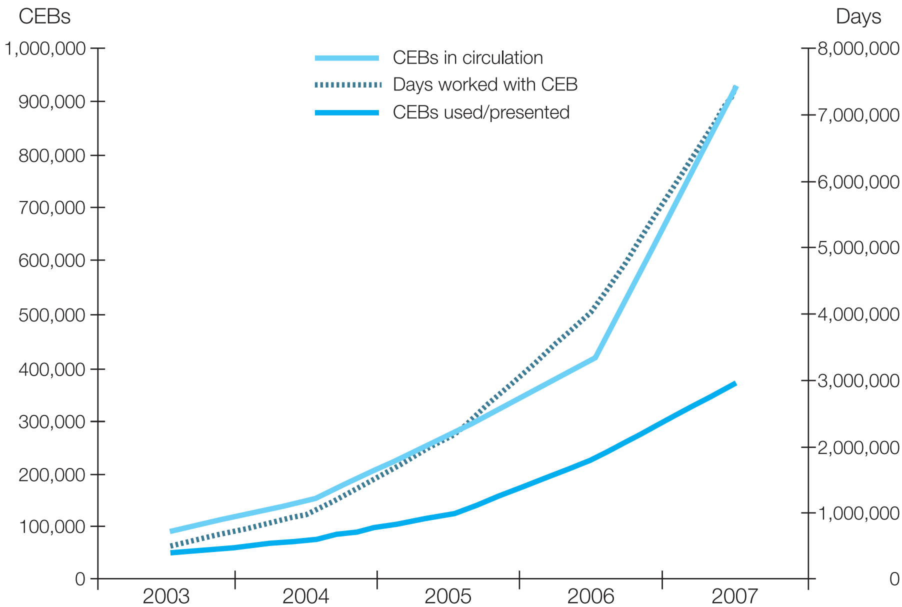
The CEB must be taken out by the employee at his/her local job centre. The tax stamp may be bought at any post office, and must be affixed to the CEB. The CEB has the status of a labour contract, and the holder of a CEB may be employed by employers subject to the Labour Code as well as all those subject to public or civil service regulations. The employer does not have to establish, verify or deduct the worker's income tax due, since all these obligations are met through the purchase of the tax stamp. The value of the tax stamp is set by more favourable regulations on tax and social benefit contributions, and is adjusted according to the casual worker's net earnings on the day in question. Furthermore, the employer has none of the registration or reporting obligations prescribed by the legislation on social insurance.

On termination of the period of casual employment, the employer is required to pay the worker's wages and settle the contributions and taxes due by affixing and validating the appropriately priced tax stamp in the CEB. Table 2 illustrates the daily amounts of tax and social security contributions due on a range of wage bands (in Hungarian forints).

Structural characteristics of legal casual employment

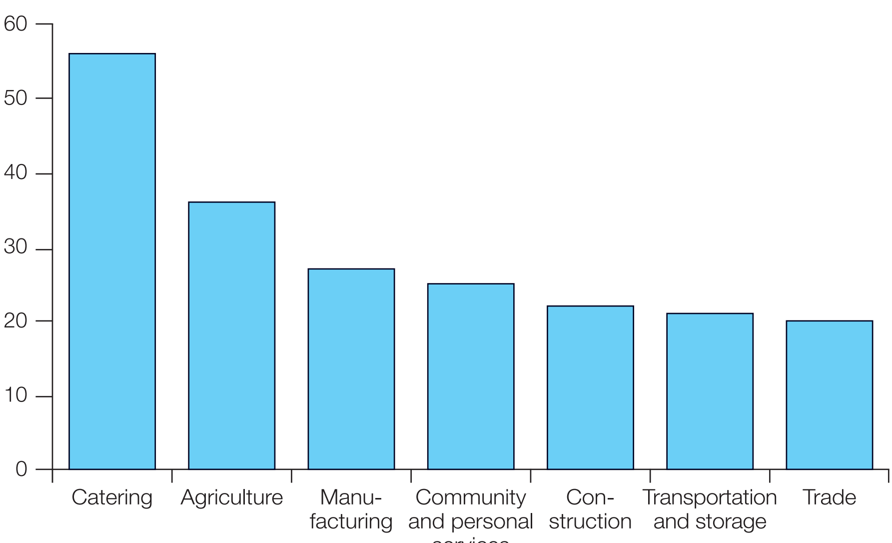
In 2006, 418,672 CEBs were taken out, half as many again as in the previous year, and 13 times more than in 2002 (figure 1). The rate of increase in the number of CEBs issued has tended to slow down in more recent years because the new Blue Book, introduced on 1 August 2005, remains valid until it is full of daily entries (recording the place, hours and type of work performed) and stamps (this can take years). Some two-thirds of the holders of CEBs were registered jobseekers, about a fifth were employed, and 15 per cent were students or pensioners. Interestingly, employed persons took out nearly four times

Figure 1. CEBs and days worked



Source: National Employment and Social Office (FSZH), 2007.

Figure 2. Industry distribution of enterprises employing CEB holders (percentage)



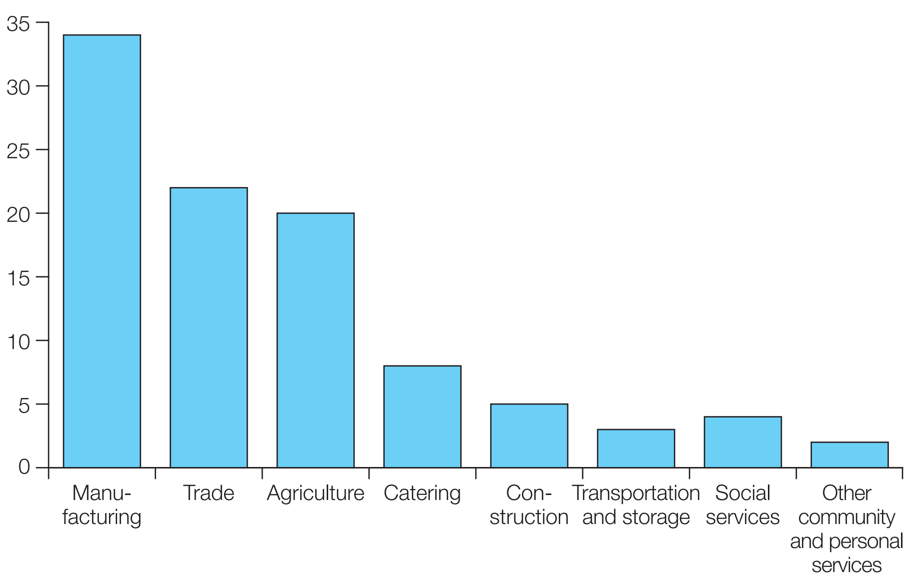
Source: National Employment and Social Office (FSZH), 2007.

more CEBs in 2006 than in 2005, and 25 times more than in 2001; and this rate of increase grows each year.

The industry distribution of enterprises employing CEB holders shows that 55 per cent of these enterprises are in catering and 35 per cent in agriculture (see figure 2). However, most CEB employment occurs in other industries, not only where it meets a real need for casual labour but also because of the 20–22 per cent tax stamp (figure 3). Indeed, reports from the job centres suggest that employment with a CEB is expanding significantly, generally because of the advantages represented by the tax incentive and payment of reduced benefit contributions. At the end of 2006, a total of 618,672 valid CEBs were registered, i.e. about 15 per cent of the economically active population had a CEB.

Most CEBs are taken out in areas where the labour market is depressed (e.g. Borsod-Abaúj-Zemlén, Szabolcs-Szatmár-Bereg and Hajdú-Bihar) and in rural areas (e.g. Békés, Bács-Kiskun). The regulations require that the CEBs be presented at the relevant job centre by 15 January of the year following that in which they were used. The number of CEBs actually presented in January 2007 (228,937) was scarcely above half the number taken out in 2006. This ratio was higher among the registered unemployed generally than among those receiving job-search assistance (68.2 per cent) or regular social security support (61.6 per cent). At 46.2 per cent, first-time jobseekers proved the least willing to present their CEBs.

Figure 3. Industry distribution of CEB holders (percentage)



Source: National Employment and Social Office (FSZH), 2007.

Casual employment of foreign nationals

In August 2005, the nationals of non-EU countries became entitled to work as casual agricultural workers for 60 consecutive days; and a Green CEB was introduced to this end. The counties along Hungary's borders showed the greatest interest in employing foreign male casual workers.

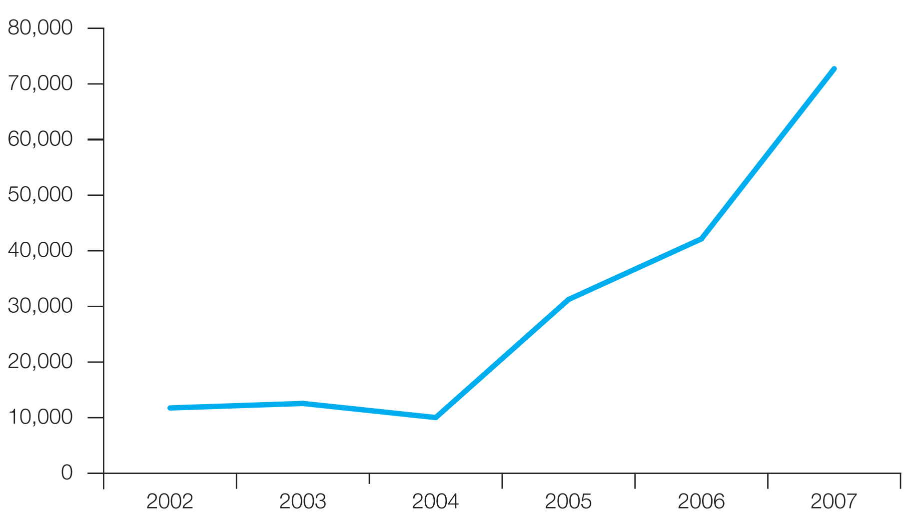
One third of the CEBs presented in January 2007 were held by nationals of EU Member States, of whom 98 per cent were Slovakian. Of the nationals from outside the EU two-thirds were Romanian, and over a quarter from the Ukraine. Nearly 44 per cent of the CEB days worked by foreign nationals (93,000) were in seasonal agricultural employment.

Of the days worked by foreign nationals, 45 per cent were worked by nationals of EU Member States, 44 per cent of whom were Slovakian; and 55 per cent were worked by nationals of non-EU States (36 per cent by Romanians, and 14 per cent by Ukrainians). There is clearly a link between the nationality of these workers and their employment in Hungary's border regions.

Findings of the Hungarian Labour Inspectorate

The main aims of the Labour Inspectorate in 2007 were to reduce illegal employment drastically and to increase tax revenues and social security contributions. Indeed, in the course of that year, the Inspectorate identified an unprecedented 72,743 workers in illegal employment – i.e. cases involving illegal or unregistered work, employment with false contracts, or illegal employment of foreign nationals – a number more than seven times higher than in 2004 (figure 4). Inspections

Figure 4. Number of workers employed illegally, 2002–07

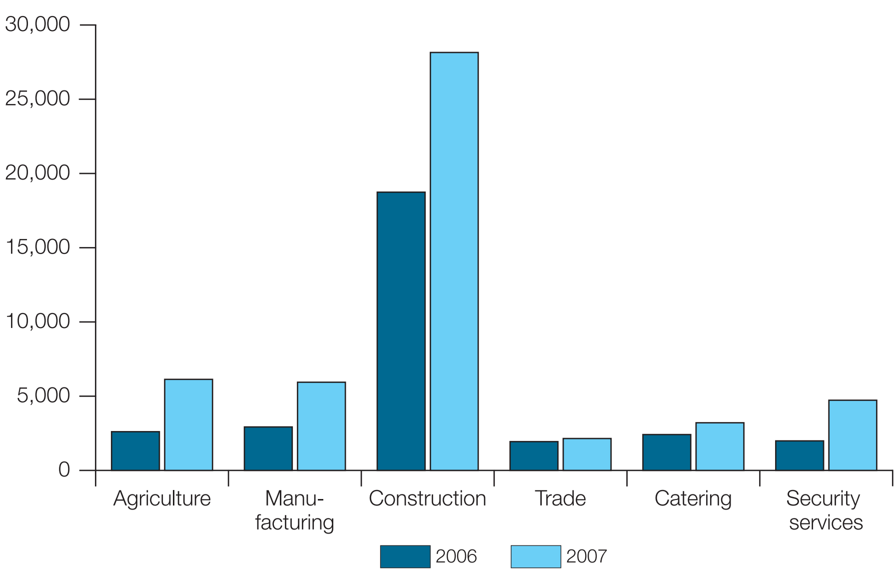


Source: Hungarian Labour Inspectorate.

also uncovered numerous cases of persons working 18 hours per day, and disregard for the workers' statutory leave entitlements. From the 14,596 inspections carried out in the construction industry, it turned out that over 60 per cent of the employers (10,049) were breaking the law on illegal employment. Indeed, more than half of the foreign nationals illegally employed in 2007 worked in the construction industry. Numerous cases of illegal employment were also uncovered in agriculture (see figure 5).

Employment on the basis of a CEB is meant to serve the employers' interests, since the costs involved are lower. Yet in every industry subject to labour inspection, employers try to evade the regulations governing the easier terms of employment provided by the Blue Book. In order to circumvent the CEB requirement that a worker may not be employed by the same employer for more than 90 days per calendar year, employers simply refrain from affixing a stamp into the Blue Book for every day worked, thus reducing the number of days officially worked. In the construction industry, for instance, they make use of the Blue Book to employ workers illegally throughout the year. And in most cases, the workers concerned are forced to conceal their income, because the CEB is the only way they can get work. In 2008, the labour inspectors uncovered more than 5,500 cases of illegal employment in the Western Transdanubian Region alone, nearly 80 per cent of which concerned "errors" or "omissions" relating to the Blue Book: these mostly involved employees' failure to have their CEB on them, or non-completion of the CEB as required for the day(s) worked. A similar proportion was identified in the Northern Plains Region, and casual employment was used across all industries – from construction and agriculture to security

Figure 5. Industry distribution of workers employed illegally, 2006–07



Source: Hungarian Labour Inspectorate.

firms. In some firms, almost every employee was employed on a casual though quite illegal basis. For instance, a beach restaurant at Szigliget had 25 employees, of whom only three worked full time in the summer, all the others being employed on a casual basis, with their Blue Books being filled in irregularly or "on the spot", without the employers' signature. Yet according to the Labour Inspectorate, in most cases it is not possible to prove that omission of an administrative requirement was intentional.

Government countermeasures

In order to counteract some of the abuses of the CEB, the Government plans to abolish the paper-based CEB. Casual employment will only be reported to the central registry by electronic means (Internet or mobile telephone). In addition, the time restrictions on casual employment will be lifted, allowing people to work on a casual basis every day of the year. But there will be tighter limits on employers' eligibility for this type of employment relationship: casual employment will be restricted to private individual employers (domestic service), public organizations (replacement staff for specific tasks) and agricultural employers (seasonal work). However, trade unions hold the view that these measures will not increase legal employment, and that the electronic registration project will not help people find lawful casual employment – one of the original purposes of the CEB

Concluding remarks

Casual work has rapidly taken root in Hungary, especially in its least developed regions. However, the data examined in this study suggest that the "downside" of the CEB outweighs its initial positive effects by far, although both the number of CEBs taken out and the number of days worked on this basis have increased dramatically over the past few years. Indeed, alongside the growing numbers of CEB holders, there has been an increase in the numbers of registered unemployed and illegal workers. Contrary to the lawmakers' intentions, the labour market has failed to become significantly more formalized since 1997, and only 2.2 per cent of the registered employers of casual workers are natural persons. Seasonal and agricultural employers have benefited much more, as reflected in the number of CEBs taken out by foreign nationals, especially in the underdeveloped regions near Hungary's frontiers: where up to 90 per cent of the days worked by foreign nationals were in agriculture. The extent of the "CEB phenomenon" is illustrated by the fact that nearly 15 per cent of the country's economically active population had a CEB in 2006–07.

The economic and social implications of the increase in casual employment are significant. As the negative effects of the CEB framework are gradually eliminated – and bearing in mind the tax advantages associated with this form of employment – an increasing proportion of casual work may well become legal, especially in agriculture, construction and domestic service. And as they become entitled to social benefits such as accident insurance, unemployment benefits, health services and retirement pensions, atypically employed persons will thus also shoulder their share of the social burden. However, the advantages of legalized casual employment, which has proven to be so popular, should be set against the huge and ever-growing number of vulnerable (casual) workers, who must forget about such notions as paid holidays and the security provided by sickness benefits, regular work and a fair pension. Aside from the attractiveness of legalized casual employment, the real question that needs to be addressed, therefore, is the suspected underlying cost it entails for the majority of other workers, including the illegal, the vulnerable and the "invisible".