

New forms of employment

Casual work, Hungary

Case study 58: Policy analysis

Hungary's simplified employment system provides a cheap and flexible way of employing casual workers for short, specified periods. Workers under the system get social security benefits but the system requires ongoing adjustment to prevent abuse and ensure it is useful for worker and employer alike.

Introduction

Act 85 of 2010 on simplified employment (SE, *egyszerűsített foglalkoztatás*) came into effect in Hungary on 1 August 2010. The basic aim of the new law was to offer a flexible and cheap way to employ workers for short fixed-term periods. Its predecessor was the casual employee's booklet (*alkalmi munkavállalói könyv*, see below) which proved to be very popular although it was extensively abused (Gyulavári et al, 2012). Simplified employment is widespread in practice. The tax authority estimates that it affected over 600,000 workers in 2013.

This study is based on the relevant legal sources and public statistics. Important sources were interviews with the department leaders of three authorities: the tax authority, in charge of inspecting simplified employment to combat undeclared work (National Tax and Customs Administration); the labour inspectorate, responsible for the implementation of labour law regulations (National Labour Authority); the employment service, which monitors labour market processes and manages state subsidies and unemployment benefits (National Employment Service).

The study also builds on the experiences of social partners, including:

- an employer's organisation that embraces agricultural sector employers, mostly medium sized enterprises, countrywide; and
- a trade union that covers employees in tourism and has been representing their interests for over two decades.

Before outlining the actual rules of simplified employment, it is necessary to summarise the story behind the regulation.

Background and objectives

In the mid-1990s, Hungarian authorities noted that in the case of short fixed-term employment, employers often hired workers without a valid contract and without declaring the employment to the tax authority. Thus they circumvented taxes, social security contributions and stringent labour law rules. Companies in the agricultural sector in particular were aggrieved because fraudulent employers had a significant advantage over competitors who respected labour and tax law rules even in casual work.

The casual employee's booklet was introduced in 1997 (Act 74 of 1997) to combat undeclared employment in the sphere of casual work. The idea came from the beginning of the twentieth century, when so called servant-booklets were issued to household servants. The booklet recorded the servant's employment history, and served as a certificate that its owner was employed (and thus was not a dangerous truant) and also as a reference on their previous jobs.

The essence of the casual employee's booklet introduced in 1997 was that if the employment lasted for under five consecutive days, and for a maximum 15 days in a month and 90 days in a year, parties could formalise the employment relationship by filling in a booklet and by marking it with a so-called 'common charge stamp' (like a fee stamp). Unlike its 'predecessor', the casual employee's booklet targeted all employers, not only private households.

For each working day, the parties had to fill in a row in the casual employee's booklet with the name of the parties, the headquarters and tax code of the employer, place and date of work, and the job profile. By means of affixing a common charge stamp at the end of the row, the employer paid all common charges (taxes, social security contributions) attached to the employment relationship. The stamp's price depended on the daily wage of the employee. The law set three wage categories, each with a higher-priced stamp. Finally, parties had to sign each row. The employee had to keep the booklet on them at work and in case of inspection had to present it to the labour or tax inspectors. In a booklet the employers could vary but the employee remained the same. A completely filled in row in the booklet was equivalent to a regular written employment contract and the compulsory information letter which has to be provided to the employee by the employer at the beginning of the employment relationship. It absolved the parties from any other obligation as regards paying or reporting on common charges. Thus the necessary steps for formalising employment could be completed easily even if the employer employed two dozen casual workers on a given day. Paperwork caused no problems and could be filled out at the edge of a grain field in the morning before harvest or at a construction site in a remote location.

The casual employee's booklet meant exemption from some labour law rules. For one, the worker was not guaranteed annual paid leave. Secondly, the contract was stipulated for a short fixed term – the rules of a notice period, protection against dismissals or severance pay did not apply. An employee could work no more than 90 days in a year via the booklet, even if the work was performed for different employers. By introducing this constraint, the law was intended to pre-empt the substitution of traditional, open-ended employment with the more convenient casual employee's booklet. Although this form of employment could be used in any sector, it was most popular in construction, agriculture and tourism.

Its simplicity soon made the casual employee's booklet very popular; by 2000 over half a million booklets had been issued and the number grew to one and a half million by 2009 (Kelemen, 2013). However, as the booklet was applied so widely, many abusive practices arose. The simplified administrative procedures were the most attractive feature of this employment form, but could also be easily circumvented. For example, parties can stamp the respective page and fill in all required columns in the booklet except the date of work, and then fill it in only in the event of inspection. If the employer manages to enter the date before the inspector checks the booklet, the authority can hardly prove that one stamp covered more than one day of work. Another widely used technique is for an employee to say that they left the booklet at home or in the office, and while the inspector waits the worker brings it in with the missing columns filled in. Inspectors have found booklets where the date was erased, scratched, or even burnt out, while others have used ink that evaporates in high temperature to conceal the actual duration of employment. Authorities have found that in many cases the casual employee's booklet was used to employ the worker permanently, but under more flexible rules.

Employers that have been improperly filling in the booklets or did not have them at all were fined. In 2009, the year before the booklet was abolished, the national labour inspectorate found

that most cases of undeclared work in the country occurred in sectors where the booklets were used, especially in agriculture and in the building industries.

Nevertheless, the employment service received feedback that even more flexibility was necessary in casual work for the measure to be effective. Employers complained that common charge stamps were sold only in post offices and called for more convenient ways to pay taxes. Some employers also found the time limit (90 days) too short given the seasonality of work in the sectors where the booklet was applied.

By 2009 it became clear that the authorities could not stop violations that lead to undeclared fixed-term work, so the legislator decided to change the regulation. The process was initiated by the competent authorities and the draft was discussed with the social partners in the National Council for the Reconciliation of Interests. During the negotiations employers expressed doubts whether the new proposal could safeguard the advantages of the previous regulation. The new law on simplified employment came into effect on 1 April 2010 (Act 152 of 2009). While the aim was to preserve the flexibility of the casual employee's booklet, the emphasis shifted towards the constraints and bans to prevent abuses. The new act was very complicated. It covered five different regimes of simplified employment, all with different rules. As a result, the new simplified employment legislation was rejected by employers. Experts also found the new law to be too complicated, meaning it failed in its basic goal to simplify the administration of casual employment. When the new government came into office in May 2010, the prime minister promised in his first speech to relax the unpopular rules of simplified employment. The actual rules on casual work were introduced after that announcement (Act 85 of 2010 on simplified employment). The drafting process went fast as in August the new act came into effect. Although social partners were not consulted on the proposal, both sides acknowledged that the new law was necessary and welcomed the change.

Characteristics of the simplified employment system

Simplified employment is never compulsory. The parties are free to choose the conventional employment relationship even if the contract is stipulated only for a few days (SE Art. 1 (5)). However, simplified employment is prohibited if there is already an employment relationship between the parties. Similarly, an already concluded employment contract cannot be replaced with simplified employment. But in addition to having an (any kind of) employment relationship with one employer, the worker could simultaneously have a simplified employment relationship with another employer. Generally, any employer (natural or legal persons) can make use of simplified employment, but in the public sector only outside the core activities (for example, a public hospital can employ casual workers as janitors but not as nurses). The interviewed authorities had no experience of its use in the public sector, where it is estimated to be marginal.

The legislator understood this employment form is a benefit, thus employers with HUF 300,000 (approximately €977 as at 22 April 2014) or more unpaid and overdue taxes are excluded from simplified employment (SE Art. 11 (6)). An interviewed representative of an employer's organisation pointed out that while this rule is appropriate for individual entrepreneurs or micro enterprises, a bigger company could accumulate such debts without any grave negligence because of the scale of its operations. For example, if an agricultural enterprise employs 800 seasonal workers for harvest, it is enough to be one day late with the compulsory payments and the interest for late payment alone would be over this threshold. Hence the employer's organisation suggests using a differentiated threshold, depending on the amount of tax the employer pays monthly.

Types and limitations

Simplified employment covers two types of temporary work: casual work (in all sectors) and seasonal work in agriculture and tourism. Seasonal work means that the work can be performed

only during a certain part or period of the year, and such seasonality is based on objective reasons and is thus not a question of how the work is organised (Act I of 2012 on the Labour Code (LC) Art. 90 point c)). The sole ‘natural chance’ that business will fluctuate and be higher in traditional holiday seasons would not make the activity seasonal according to the labour code. Nevertheless, a trade union representative interviewed highlighted that the interpretation of the statutory definition could be ambiguous in many cases. For instance, if a hotel is open all year round, its main activity is surely not linked to a certain time of year. However, the same hotel might have an outside sports centre or spa which operates only during the summer. Thus an employer may have different activities and some of them might qualify as seasonal employment while others do not. When the union consulted the tax authority on the interpretation of seasonal work, the authority took the broader approach, meaning that an employer is not denied the right to employ seasonal workers for seasonal activities on the grounds that otherwise the employer pursues (other) activities all year.

Only seasonal work in the two sectors mentioned falls under simplified employment, and it cannot exceed 120 days in a given year. Seasonal and casual work contracts for the same employer–employee combination shall be added when this threshold is calculated (SE Art. 1 (4) and Art. 2). For example, if a wine producer employs a seasonal worker for 90 days for the grape harvest and processing, in the same year the parties can conclude a casual work contract for winter maintenance work for up to a maximum of 30 days. In other words, this constraint means that the employer cannot employ the same worker using simplified employment for over 120 days altogether in a given year.

Casual work kept the time limits used in the casual employee’s booklet, thus it embraces only very short fixed-term employment, not exceeding five consecutive days, 15 days a month and 90 days a year (SE Art. 2 point 3). The limits are applicable to one employer–employee relationship, thus it is possible that a worker works on SE all year long (for example four different employers at 90 days each).

Time limits of simplified employment are summarised in Table 1.

Table 1: Time limits of simplified employment

Type of simplified employment	Time limits (per employer–employee relationship)
Seasonal work (agriculture, tourism)	120 days/year
Casual work (all sectors)	5 consecutive days
	15 days/month
	90 days/year
Seasonal and casual work together	120 days/year

Source: Act 85 of 2010 on simplified employment.

Beside the limited time frame, the number of casual workers employed on a given day is also subject to limits. The maximum number of casual workers a company can employ at a given time depends on the average number of full-time employees it had in the previous six months. The exact figures are shown in Table 2 (SE Art. 1 points 2-3). The number of seasonal workers in a given company is not limited.

Table 2: Headcount limits of casual work

Number of full-time employees (average of the last six months)	Maximum daily number of casual workers
0	1
1–5	2
6–20	4
21 or more	20% of full-time employees (based on the last six months)

Source: Act 85 of 2010 on simplified employment.

Such stringent limits are relaxed if the employer schedules the daily threshold unequally during the calendar year. For example, if an employer has five full-time employees, they can employ two casual workers each day. That means $365 \times 2 = 730$ casual workers for the whole year. The employer respects the limit if it employs 100 casual employees for seven days during the year, or hires all 730 workers for a single day. However, the unused amount cannot be transferred to the next year.

Two categories of casual workers are exempted from the headcount limit. It is not applicable to walk-on actors and any casual workers of employment cooperatives. The latter is a special employer, a non-profit organisation operating to enhance the employment of its members. As employment cooperatives regularly offer casual work to hundreds of members, applying the headcount would hamper their operation. The exemption of walk-on actors is a benefit for film studios situated in the country. Nevertheless, their employment has another constraint: a walk-on actor falls under simplified employment only if their daily income does not exceed HUF 12,000 (€39).

The interviewed social partners indicated that most employers can cope with the above limitations. The 120-day limit is long enough to cover the whole season in tourism and in most agriculture-related activities. The employer's organisation representative noted that they experienced very different practices among their members. Over 70% of the members used simplified employment for an average of 29 days per year. While some employers hire casual workers every day, others use them only during production peaks. The number of employees differs also: while generally the annual headcount of SE workers is under 50 persons, the biggest companies employ over 300 employees using simplified employment, although this could reflect hiring some of the workers for very short periods.

It is worth mentioning that the previous regulation (Act 152 of 2009 on simplified employment) regulated household work as a separate form of simplified employment. Household work was understood as personal service performed for a natural person as employer. While such activities are not covered by SE – except if it is performed as casual work – in tax law these still enjoy a special status. In 2010 the government decided that wages paid by natural person employers to household service employees should not bear any common charges if the employer's income was already subject to taxes. For instance, if a family pays its housekeeper from wages from which they had already paid the relevant taxes, the housekeeper should not pay any more common charges on his wage from the family (Act 90 of 2010 Chapter I). The term 'household services' is understood in a narrow sense, as only those activities that are listed in the act (for example cleaning, cooking, washing, nursing a child, gardening) are tax exempt. Individual entrepreneurs and legal entities that provide these services are excluded from the scope of the act.

While this form of employment is free of common charges, the employer has to send a report to the tax authority every month she employs a household servant and has to pay a HUF 1,000

(€3.25) registration fee monthly. The fee is irrespective of the days worked and of the wage amount. Statistics show that whatever the limit, such a registration fee keeps most employers from declaring their household servants to the tax authority, or at least natural person employers are not aware that registration is compulsory. Until 2013, fewer than 650 employers paid the fee monthly, while the number of household servants is undoubtedly higher. It seems that despite this simplified procedure, household workers still form an invisible workforce in Hungary (Kelemen, 2013).

The above-mentioned rules do not touch upon the nature of the legal relationship between the household worker and the employer. Household work is not just left out of the SE's scope, but it is left completely unregulated as regards labour law matters. Thus it might be an employment relationship or a civil law contract. However, as no contributions are paid, the worker is not covered by social security. Not surprisingly, trade unions opposed such a regime of household work because if an employer changes the status of its employee to household servant (for example part-time household workers), the worker falls out of the coverage of social security.

Applicable labour law rules

Besides SE (Act 85 of 2010 on simplified employment), a separate title in the Labour Code regulates simplified employment, among other forms of atypical employment (LC Title 89). The general provisions of the Labour Code are applicable to simplified employment unless the SE or the separate title rules otherwise. The main differences between atypical employment relationship and simplified employment are the following.

No written employment contract is necessary in simplified employment and there is no longer a booklet. The declaration of employment sent to the tax authority by the employer before the commencement of the work establishes the legal relationship (LC Art. 202 (2)). This solution aims to decrease the parties' administrative burden, although it is rather unique in civil law that one party's declaration to an outside party establishes a legal relationship. Authors argue that it is the mutual agreement of the parties that establishes simplified employment, and the declaration is only an additional legal condition to apply the more flexible rules (Bankó et al, 2012).

Nevertheless parties may choose to sign a written contract. The legislator annexed a template to the SE for such purposes. A filled-in template is equivalent to an employment contract as regulated in the Labour Code. The template serves as a guarantee that the parties would not forget to include the necessary elements in their contract and has two more advantages. First, a properly filled-in template absolves the employer from registering working time and second, no written payroll is needed as this data is contained in the form itself (LC Art. 203 (4)).

In case of casual workers, written contracts are rare, as the whole relationship lasts a maximum of five consecutive days. It is more common among seasonal workers, as it is in both parties' interest to have written proof of the negotiated wage and other working conditions when the employment lasts for the whole season.

Third country nationals can be employed through simplified employment only for seasonal agricultural work with a valid work permit. Before a third country national enters the country, they need to contact the employment service for a certificate stating that they are entering Hungary for the purposes of simplified employment. The employment service then contacts the tax and social security authorities to issue the necessary identification numbers. Hence it is not the foreign worker who has to keep in touch with the various authorities; they only have to contact the employment service. These services are free of charge for the worker (SE Art. 5).

While the Labour Code is applicable to simplified employment, some general rules have been amended considering the temporary nature of employment (LC Art. 203):

- Parties cannot withdraw from the contract after signing it (even if they voluntarily concluded one). However, the employer may withdraw or modify the declaration sent to the tax

authority in the first two hours after it was sent and withdrawal has the same effect (that is, the contract shall be considered as never stipulated).

- The employee cannot be reassigned to another job profile, place of work or employer than that stipulated in the contract (or in the declaration sent to the tax authority). However, temporary work agencies may use simplified employment. A casual or seasonal worker employed by an agency can naturally be assigned to different user companies (Gyulavári et al, 2012).
- No disciplinary actions can be used against the employee. Instead, the employer may only issue a written warning to the employee (this is not considered a disciplinary action in court practice) or terminate the employment relationship.
- The employer is not obliged to inform the employee on open-ended or part-time vacancies.
- The employer is not obliged to amend the employment contract to part-time work upon the request of the employee raising a child under age three.
- It is not mandatory to raise the employee's wage after returning from a long absence. Such long-term leave is not part of the contract, in any event (see below).
- No certificates and references are to be issued to the employee at the end of the relationship.
- Annual leave can be scheduled freely by the employer (for example, there is no mandatory deadline to give prior notice to the employee on how annual leave is scheduled). Note that since casual work cannot exceed five consecutive days, casual workers never have a long enough contract to be eligible for annual leave (one day of annual leave needs 12–15 days of employment). Even if they work all 90 days for the same employer, this is divided into 18 5-day contracts. The consecutive contracts shall not be calculated together to be eligible for annual leave.
- Limitations on the renewal and prolongation of fixed-term contracts shall not apply; chain contracts are not excluded.
- Rules on executive employees shall not apply.

The following special rules make the scheduling of working time very flexible in simplified employment.

- The employer is not obliged to give the employee advance notice the working time schedule. In many cases employees work outdoors exposed to unexpected weather changes (for example harvesters, spa hosts). In these jobs, working time might be rescheduled in the morning, before the working day starts. Note that the employee may not refuse work once it has been scheduled for a day, otherwise it is considered an unjustified absence from work.
- Working time can be scheduled to working days unequally (for example, two hours a day and six hours another day) without respecting the so-called reference periods (the whole employment relationship is considered to be the reference period during which the working time may be distributed).
- The employee can be employed on Sundays and on public holidays as on usual working days, and the employee is not entitled to the statutory Sunday wage supplement. However, work on public holidays means a compulsory 100% wage supplement.
- The employee is not entitled to sick leave, maternity leave, parental leave or other statutory leaves with pay.

From 2013, after an amendment of SE, simplified employment is more flexible as regards the minimum wage too. Employers have to respect only 85% of the general national minimum wage ((HUF 496 (€1.6)/hour) and 87% of the national minimum wage for employees with secondary-level qualifications (HUF 591 (€1.9)/hour) (SE Art. 4. (1a)). Payment is usually made in cash but money transfer is also possible if the parties prefer (LC Art.158 (1)).

Beside the above, for seasonal work, the Labour Code offers more flexible rules on rest periods. First, it is enough to schedule an eight hour-long daily rest period (the general rule is 11 hours) and it is not compulsory to schedule a rest day after six working days (LC Art. 104 (2) and Art. 105 (3)).

The law prescribes only that the employer has to check whether the employee is in a fit condition to perform the work (SE Art. 6), but does not oblige them to carry out an examination. Nevertheless, employers have the same responsibility for any injuries during work as in the traditional employment relationship. Thus if the employer – who is medically untrained – did not spot a health risk of the newly recruited casual worker (such as high blood pressure), and later the worker suffered an injury at work, the employer would be still responsible for all damages.

Employers can reduce such risks by performing a so-called employability examination. Here, the health examination is not limited to the employee's abilities for a given job, but has a wider scope. Its aim is to explore what general limitations shall apply to the employee's work, if any. For example, after this examination an employer can stipulate that a specific employee shall not work in a permanent sitting position, outdoors, or shall not perform heavy physical jobs, or tasks requiring full eyesight. The certificate of the examination is valid for one year, meaning that a casual worker could use it in several employment relationships. Both the employee and the employer may initiate the employability examination, and the party that initiates the process has to pay a HUF 3,300 (€10.75) fee (Government Decree 284/1997 (XII. 23.)). In some exceptional cases, work cannot be started without a valid employability certification. Among others, these cover the employment of young workers, pregnant women and breastfeeding mothers, while other special examinations are mandatory in jobs where a worker is exposed to epidemics and in the food industry (Welfare Ministerial Decree 33/1998. (VI. 24.) Art. 16/A (1)).

The employers' organisation representative interviewed noted in that debates on who should pay the fee for the employability examination are quite common in agriculture. Certificates are issued for one year, thus it is usually the employers who need casual workers in early spring who pay the fee. When the same employees work elsewhere during the year, their future employers benefit from the examination they did not pay for. As a result, many employers advertise casual positions only to applicants who already have the certificate, shifting the burden to the employees themselves. The trade union advisor was aware of the same practice in tourism, where most employers insist on employing workers with certificates on their employability. For instance, in case of an infection, a hotel needs to prove that none of its kitchen employees could have caused the clients' illness.

All other rules of the Labour Code not mentioned above are applicable to simplified employment. For example, there is no difference in the rules of equal treatment, amendment and termination of the employment relationship, responsibility for damages or labour disputes. Nonetheless, the temporary nature of their employment means that these employees are not eligible for severance pay, notice periods or the same level of training or bonuses as the permanent core staff.

Collective rights

Although SE workers enjoy the same collective rights, the trade union representative interviewed noted that organising employees in short fixed-term employment is very challenging. Most officials prefer not to devote time and resources in persuading workers who would leave the employer within a couple of months to join unions. Nevertheless, the union tries to represent their interests too. For example, the union launched a campaign to inform employees on their rights as casual or seasonal workers. On one occasion the union's international confederation turned to the public to safeguard casual employees' interests. The confederation received dozens of serious complaints during the summer season about a hotel chain. As the management refused to consult the union's officials on the matter, the confederation made it known throughout Europe that the hotel chain did not respect employees' rights and called on the public to avoid its services.

Finally, the management agreed to negotiate the problems and changed its approach towards casual workers.

Three sectors where simplified employment is the most common are covered by sector-level collective agreements, but none of them explicitly mentions simplified employment.

The union representative added that there are many company-level agreements in the tourism sector and they are applicable to casual and seasonal workers too, although agreements usually do not address simplified employment directly. Wage supplements and other benefits are often regulated in these agreements and form an important element of the total income of workers in simplified employment.

The labour authority's department head also noted that casual workers are usually out of the union's sight. While the authority often starts inspections after notification by unions, such complaints concerning simplified employment are very rare.

Common charges and administration

Simplified employment is probably most popular for its favourable regime of common charges. Its predecessor, the casual employee's booklet, also involved low employment taxes, but the present law contains even more simple rules.

According to SE, the employer has to pay only a daily flat rate of HUF 500 (€1.6) in seasonal work, HUF 1,000 (€3.25) in casual work and HUF 3,000 (€9.7) for walk-on actors, and it covers all common charges attached to employment, for example personal income tax, social security contributions, vocational training and rehabilitation contributions (SE Art. 8 (2)). Such flat rates are to be paid after each day of the employment relationship, not only working days. For example, if a seasonal worker's contract lasts for 100 days, HUF 50,000 (€163) shall be paid, even if this period covers weekly resting days too. This is also the reason why casual work falls under a higher rate: casual work by law cannot exceed five consecutive days and if the employer still needs the employee the following week, another contract is offered. This way the employment relationship consists only of working days and no common charges are to be paid for resting days. Nevertheless – as the union advisor pointed out – it is still cheaper to employ seasonal workers for longer periods and pay the half flat rate after all days. For instance, after 15 working days the employer has to pay HUF 15,000 (€49) in casual work, but only HUF 10,500 (€34) in seasonal work (with six resting days included). The employers' organisation representative added that employers plan carefully to achieve the optimal common charge rate. For instance, if the eight-hour shift starts at night and ends the next day, two days' tax need to be paid. Instead, it is worthwhile to organise the shifts to end within a single calendar day.

Interestingly, the common charges rate is irrespective of the hours worked. Therefore, in case of a casual worker HUF 1,000 (€3.25) shall be paid daily irrespective of whether the casual worker works four hours a day or full-time. It is therefore no surprise that part-time work hardly exists in simplified employment. This regulation makes payroll calculation very easy, while different wage levels agreed by the parties may fall under the same amount of common charges.

However, wage levels have significance in two cases. First, the employer shall account the wage as an expense only up to double the daily minimum wage (HUF 9,340, €30.40). Hence personal income tax or – in the case of a legal person employer – company tax (10%, 19% over HUF 500 million (€1.6 million) profit) shall be paid after the wage above this amount. For instance, if the daily wage is HUF 12,000 (€39), the company shall pay 10% company tax after HUF 2,660 (€8.6). This naturally means that employers are reluctant to pay more than the double the minimum wage in simplified employment.

Second, starting from 2013 the employee has been responsible for paying personal income tax (16%) for sums above the daily minimum wage (HUF 4,670, €15.2). Walk-on actors are exempt from this rule. If the employee's pay is below the minimum wage, their income shall not be

declared to the tax authority and no personal income tax shall be paid over the HUF 1,000 (€3.25) daily flat rate. The employment service's department head noted that parties are often not aware of this new rule. Employees regularly forget to include their income from simplified employment in their personal tax report, especially foreign workers.

The applicable common charges are summarised in the following chart.

Table 3: Common charges in simplified employment

Daily wage level	Flat rate (casual/ seasonal work)	Employee's personal income tax (except walk-on actors)	Employer's personal income tax or company tax
HUF 3,970 (85% of the general minimum wage, the lowest possible wage in simplified employment)	HUF 1,000 / HUF 500	-	-
up to HUF 4,670 (the general minimum wage)	HUF 1,000 / HUF 500	-	-
up to HUF 9,340 (double the general minimum wage)	HUF 1,000 / HUF 500	16% after the wage over HUF 4,670	-
over HUF 9,340	HUF 1,000 / HUF 500	16% after the wage over HUF 4,670	10% (19% over HUF 500 million profit) of the wage over HUF 9,340

Source: author.

Such reduced common charges are applicable only if the employer respects the time and headcount limits of simplified employment. If the employer violates these constraints, from the time of the breach the general tax rules shall apply to the employment and the employer will be excluded from simplified employment for a period equivalent to the time it used the favourable rules without authorisation (SE Art. 8 (4)). For instance, if the employer hired casual workers for three months over the statutory headcount, it has to pay all taxes by the general rules for this period and cannot use simplified employment in the next three months. Similarly, if the employer employs seasonal workers for 125 days, the general tax rules apply for the last five days, as this period is over the time limit. The employer will also be excluded from simplified employment for an additional five days.

Due to the low common charges, employees in simplified employment are not covered by full social security. They are eligible only for pensions, accident-related health services and unemployment benefits (SE Art. 10). Given the temporary nature of these jobs, simplified employment does not exclude the employee from unemployment benefits (the same applies to household servants mentioned above). Hence it is possible to work in simplified employment while enjoying unemployment benefits, and employees are not even required to inform the employment service on their casual or seasonal work (Act 4 of 1991 Art. 25 (6) and 58 (5)).

As for the administrative obligations, the employer has to declare the basic information required for simplified employment to the tax authority before the work starts (the parties' names, the type of simplified employment, the duration of employment).

All authorities interviewed agreed that it was very hard to inspect the casual employee's booklet where all the administration was paper-based. When the rules of simplified employment were drafted, authorities recommended that all reporting obligations should be done electronically, which would make legal control much easier. As a result, the declaration of employment may be done through an online application or by telephone (SE Art. 11). Since 1 January 2014, the online interface has also been available for Android and iOS operating systems. The telephone number can be called on reduced rates countrywide. After the first call, employers get a registration number, which the authority can use to identify them in subsequent communication and there is no need to record all data again, making the process faster. The social partners interviewed agreed that both available forms of electronic administration are convenient for employers. Nevertheless, no really handy option is possible when an employer has to declare 30–40 casual workers at dawn before crop harvesting starts, especially as employers in agriculture are often not familiar with modern telecommunication devices.

Unlike in the traditional employment relationship, employers may withdraw or modify a declaration within two hours of submitting a declaration. This can only be done online or by phone. If the declaration is made the day before the work starts, or the employment lasts longer than one day, the deadline is eight o'clock in the morning. For example, if due to an unexpected weather change the harvest cannot start, the employer can withdraw the declaration of the casual workers' employment made the previous evening up until next morning. This way the employer does not have to pay wages nor common charges for a day when work was cancelled. Nevertheless, the employer's organisation representative highlighted that the employer cannot escape such risks if work has to be cancelled after the deadline (as when a storm washes away the harvest early in the afternoon).

Outcomes

Macro level

According to data from the National Tax and Customs Administration, simplified employment has spread quickly and the number of employees reached 630,000 in 2013.

Table 4: Simplified employment in 2011-2013

Year	2011	2012	2013
Number of employees	443,700	533,400	630,000
Number of employers	86,400	102,900	119,600
Tax income (HUF billion)	6.2	7.8	10.2

Source: National Tax and Customs Administration

According to data from the National Labour Authority, in 2013 it inspected the simplified employment of 5,475 workers and found violations in 4,219 cases. That is 77% of all workers inspected. Such a figure shows that malpractice is still common in casual work. The department head interviewed said that the most frequent violations were that employers failed to declare casual workers or the declaration was sent late. In 2013, 35% of all undeclared work was found in

simplified employment (NMH, 2014). Other frequent violations are breaches of the time or headcount limits, which are sanctioned by excluding the employer from simplified employment (see above). In the opinion of the authorities, exceeding time limits could indicate that employers use casual or seasonal work to replace permanent employment. Even though simplified employment falls below the minimum wage, inspectors often found that employers paid even lower wages in practice.

The authorities agreed that it was important to improve the technical background of the online system for declaration processes. First, some employers still skip the compulsory declaration as they find it complicated, especially when a large group of workers starts work. Second, the authorities can get a clear picture of how simplified employment is applied in practice only if all workers are properly reported. Such a database would also be necessary to decide whether regulation needs modifications or not. Nevertheless, the tax authority is aware that sometimes employers declare false data, such as shorter employment durations or lower wages. With a properly designed technical background it would be easier to discover such breaches of law.

All the interviewees mentioned that simplified employment basically aims to combat undeclared work at the peripheries of the labour market. As the union representative pointed out, employers can 'buy' legal employment and avoid the risk of sanctions for a daily price of HUF 500 (€1.6) by paying the flat rate common charge for a seasonal worker. The employers' organisation representative added that undeclared work in agriculture is especially common among small enterprises. Social partners hope that if they disseminate information on the advantages of simplified employment, even SMEs can be persuaded to change to legal employment. However, no studies are available on whether simplified employment has really become an alternative to undeclared work. On the contrary, the employment service's department head made the rather sceptical observation that employers might use simplified employment to replace fixed-term contracts under the Labour Code and save the social security contributions.

Micro level

Simplified employment concerns short fixed-term jobs and guarantees only partial entitlement to social security services. Although there are no wage ceilings, the unionist interviewed noted that employers rarely exceed the daily minimum wage in order to pay the least common charges. Authorities, however, often find that an employee's declared earnings are supplemented by the employer in cash. Such 'semi-undeclared work' also constitutes a grave violation of tax rules and is strictly sanctioned. The high level of malpractices found during inspections also shows that simplified employment generally means poor working conditions. The employment service's department head described simplified employment as being on the periphery of the labour market but noted that these jobs nonetheless grant a much better status than unemployment or undeclared work. Moreover, casual work could be a stepping stone towards more stable jobs with the employer. The union interviewed also found that employers often recruit permanent staff from among their best performing casual workers, meaning that casual work can increase employment security for some workers.

The employers' organisation representative mentioned that in agriculture, casual workers are mostly employed to handle workload peaks in manual jobs that require no qualifications. Casual work is also common in supplementary activities such as maintenance works during winter or cleaning. The trade union in the tourism sector estimated that the vast majority of the personnel employed for the summer season at Lake Balaton –the country's most popular holiday area – are casual or seasonal workers. In winter, many of these employees travel to work in the ski areas in neighbouring countries.

Casual and seasonal workers become part of the employer's staff only temporarily. Even though the interviewees shared no direct experience of different treatment, these workers are on the

periphery of the employers' workforce and probably are excluded from trainings, special allowances or bonuses.

Strengths and weaknesses

From the employer's point of view, simplified employment has the following strengths.

- The applicable labour law rules are more flexible than the general provisions in the Labour Code. Administrative costs are reduced as no written employment contract is needed, the cost of sick leave can be saved, and working time can be scheduled unequally and also for Sundays and public holidays.
- The administrative burden is lighter, for instance it is easier to declare the employment to the authorities and not mandatory to issue certificates at the end of the employment relationship.
- Common charges are significantly lower than in the typical employment relationship and are based on a flat rate. Payroll needs no trained personnel.

From the employee's perspective, the major strengths are the following.

- Simplified employment is a real alternative to undeclared work in temporary employment. Employees at the peripheries of the labour market can gain employment legally and be eligible for pension and unemployment benefits.
- Lower common charges mean a higher net income for the worker.
- Casual work can lead to permanent contracts with the employer and thus be used as a stepping stone. Moreover it could be useful for people reentering the labour market after prolonged leave or long-term unemployment.

The employer faces the following disadvantages.

- Simplified employment is constrained by strict working time, duration and headcount limits.
- Even if casual and seasonal workers fall under the scope of the Labour Code, they are not considered as employees in most state tendering procedures. Thus, a company with hundreds of casual workers cannot participate in a tender requiring a high number of employees.
- The template for the employment contract also has its shortcomings. For instance, it does not contain any reference to a probation period or special rules on responsibility for damages, even though these legal institutions could be used in simplified employment. If parties want to make use of these, they need to supplement the template at their own discretion. The problem is that most employers are not familiar with these possibilities and follow the template without considering what other options they might have in formulating the contract.

On the employee's side, the main weaknesses could be summarised as follows.

- Simplified employment is not covered by all social security services (healthcare is excluded).
- Tax rules encourage the employer to keep wages down around the minimum wage.
- While working time rules are more flexible, sick leave and other unpaid leave is not guaranteed.
- Jobs are temporary with obviously low job security.

Transferability

Seasonal work might be extended to other sectors, albeit that the sector-level collective agreement in the construction industry precludes this employment form. The time limits applicable to casual work could be relaxed to attract more employers, although this could turn fixed-term contracts

into simplified employment, which would mean a significant decrease in the employee's protection.

The basic structure of simplified employment is not country-specific. It might be transferred to other countries, while the exact limitations and common charge rates need to be determined according to the local circumstances.

Commentary

Simplified employment targets a part of the labour market which is very hard to regulate. Undeclared work is always a tempting choice if the employment relationship lasts for just a few days or weeks. The legislator has attempted to define the applicable labour law rules, administrative obligations and common charges to encourage employers to choose legal employment while also offering adequate protection to the casual workers.

The Hungarian model aims at achieving such equilibrium with varying success. The HUF 1,000 (€3.25) monthly registration fee for household servants, and the rise in personal income tax due for wages above the daily minimum wage seem too rigid, and as a result only a handful of all household workers are declared to the tax authority and casual workers are rarely paid over the minimum wage. On the other hand, the exemption from medical examination is perhaps questionable, as it would be in both parties' interest to avoid risks of damages during work.

It is important to analyse the practical outcomes (if these are available) of simplified employment regularly and be ready to adjust the legal framework to approach the desired equilibrium of flexibility and security in casual work.

The department leaders of the tax and labour authority noted that there is no scheduled review of the current legislation and they have no recommendations on possible amendments as of spring of 2014. The employment service's expert noted that simplified employment could also be used as a labour market instrument. As of early 2014 the employment service just monitors the relevant trends but has no authority to facilitate casual work in a given region, profession or among certain groups of the unemployed. This function requires legislation and adequate funding, but would be important to help workers to avoid long-term unemployment. The employment service runs programmes to employ disadvantaged groups in the public sector, but initiatives from such publicly funded programmes are less likely to result in a permanent job than casual jobs in the private sector. The department leader also noted that 'public works' often stigmatise employees as workers who could not find better positions in the labour market, while this effect is less likely in simplified employment. The employers' organisation representative underlined this idea and also suggested that simplified employment should have special rules in regions affected by high unemployment rates, such as lower common charges.

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