



*Maarten Keune*

## **Creando instituciones capitalistas: el funcionamiento del mercado de trabajo en Hungría en los años noventa.**

### **RESUMEN:**

Este estudio tiene dos objetivos. Uno de ellos es determinar hasta qué punto el “capitalismo realmente existente en Hungría” se aparta del modelo que establece la economía de mercado neoclásica, valorando la importancia de otras alternativas, como, por ejemplo, el empleo y la política laboral, la normativa laboral y la negociación colectiva, y analizando en qué medida restringen o permiten una regulación a través del mercado. El segundo objetivo es comprender por qué ha surgido la configuración institucional actual y no otra, teniendo en cuenta que, en principio, existe una variedad infinita de resultados posibles. Este trabajo identifica a los actores que están participando en las instituciones de mercado y analiza sus ideas, sus intereses y programas de reforma, así como el contexto socioeconómico en el que actúan.

Palabras clave: Hungría, capitalismo, transición, reformas económicas, instituciones, mercado de trabajo.

## **Creating capitalist institutions: labour market governance in Hungary in the 1990s.**

### **SUMMARY:**

This paper has two objectives. One is to determine to what extent 'really existing Hungarian capitalism' departs from an ideal-type neo-classical market economy, by establishing the importance of other relevant modes of governance, i.e. employment and labour market policy, labour law and collective bargaining, and how they constrain or enable market regulation. The second is to understand why it is the present institutional configuration that has emerged and not another of the in principle infinite variety of possible outcomes. The paper identifies who the main actors are that have been shaping labour market institutions, what their ideas, interests and reform programmes have been, and in which institutional and socio-economic context they have been operating.

**Key words:** Hungary, capitalism, transition, economic reforms, institutions, labour market.

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## CREATING CAPITALIST INSTITUTIONS: LABOUR MARKET GOVERNANCE IN HUNGARY IN THE 1990S.

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### Introduction<sup>1</sup>

Capitalist systems come in many varieties. Indeed, although often a functionalist-evolutionist type convergence on a superior model is assumed, there is an extensive body of literature showing that the institutional configuration of capitalist systems varies widely and persistently both across time and space (Crouch and Streeck 1997, Hall and Soskice 2001; Coates 2000; Hollingsworth and Boyer 1997). Such institutional divergence concerns diverse areas like the way financial systems are organised, industrial relations, education and training systems, the extent to which economic actors compete and/or co-ordinate their activities, and others. The reasons why divergence persists over time, even in today's world where growing economic internationalisation means that countries are often faced with quite similar problems and challenges, are manifold. Paramount among them are that divergence tends to reconstitute itself because different national institutional configurations tend to constrain certain responses to such common challenges while they facilitate others (Kitschelt et al. 1999; Hemerijck et al. 2000); and that institutional change has been conceived, implemented and influenced by particular (national and international) actors with their particular ideas and interests (Campbell 2001).

State socialism showed similarly profound differences between countries or within countries at different moments in history. Indeed, as under capitalism, there was a generality of experience that can be claimed only at a broad systemic level (Kornai 1992; also Hettne 1994). Based on this diversity, the CEE countries have been constructing their own variations on the general theme of capitalism. But what does capitalism in the various CEE countries look like? And what are the processes determining its characteristics? In the present paper we aim to shed some light on these questions by providing a detailed analysis of change of labour market institutions and the way they

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regulate labour market action in Hungary. Labour market institutions are among the fundamental institutions addressed in the study of capitalist diversity and at the heart of reform debates. In western capitalist countries, since the early 1980s, and within the context of the (perceived) process of globalisation, there has been a major ongoing debate on the need to reform labour markets (Esping-Andersen and Regini 2000; Standing 1999; Buechtemann 1991; Boyer 1988). More recently, this debate has been extended to CEE as well, displaying many of the same arguments. Much of the discussion has centred around the issues of deregulation and flexibility. In essence, this deregulation/flexibility debate is a debate on institutions. It starts from the assumption that different institutional arrangements allow for higher or lower levels of flexibility and favour certain types of flexibility over others. The focus of the debate has been mainly on questions like to what extent and/or in what way economic organisations have to become more flexible in their use of labour to be able to respond to the 'new' exigencies of the global economy; in what way national institutional systems should be (re-) shaped to allow for or foster labour flexibility; and what the consequences for aggregate employment and the quality of employment are.

The institutions, or modes of governance, at the heart of the debate are the market, the state (legislation, policy) and associations (unions and employers' organisations), and generally the virtues of market governance (read: deregulation) are contrasted with those of the state or associational governance.<sup>2</sup> In the context of a strengthening drive towards neo-liberal views on the economy, since the 1980s, influential actors like the Thatcher and Reagan governments, the OECD, IMF and World Bank, as well as many economists influenced by neo-liberal supply-side thinking, started to call for deregulation and the removal of 'rigidities', and thus for an increasing role of the market in regulating economic behaviour.<sup>3</sup> This strong and persistent insistence on the need for general de-regulation reflects a rather crude version of a theory of convergence (Regini 1999). This claims that the modernisation of advanced economies and societies must follow established paths, essentially dictated by exogenous factors, and takes 'successful' Anglo-American capitalism to be the example to follow for high unemployment Europe (*ibid.*).

<sup>2</sup> This does not mean that the three are substitutes for each other. For example, as we have seen during the Thatcher era, the drive towards more market may well occur in the context of a strong state. Also, markets cannot exist without the state, which they require to set and maintain the rules.

<sup>3</sup> The basic reference here would be the OECD's Jobs Study (1994) which has become one of the most influential advocates of market governance. Within the CEE context this argument has been forwarded by many economists as well, see e.g. the volumes edited by Barr (1994) or Commander and Coricelli (1994).

However, empirical work often does not support the conclusion that various types of state and associational governance necessarily affect economic performance, labour market adjustment or labour demand in a negative way (Esping-Andersen and Regini 2000; Bertola *et al.* 2000; Buechtemann 1991). Also, persisting empirical differences between countries and within countries contradict convergence thinking (Regini 1999). And where institutional change has taken place, although the accent may have been on deregulation, in many cases this has also involved forms of re-regulation. As a result, there continues to be ample diversity and there is no standard or best national model of labour market governance. In all national labour market regimes all three modes of governance play an important part, they differ rather in terms of the relative significance of each and in terms of the particular spheres of action they affect. This, then, constitutes the starting point for the analysis of labour market institutions in Hungary in this paper. Such an analysis should not be constructed on the conception that institutional reform in the former state socialist world moves towards a known or optimal outcome, the achievement of which depends on the direction and speed of reform. Rather, the above points to the socio-historically constructed character of institutions and the open-endedness of change, as well as to the importance of the analysis of the particularities of the process of change, the actors and motives that drive it and the outcomes that result from it.<sup>4</sup>

What we set out to achieve in this paper is firstly to determine what type of system of labour market institutions has emerged in Hungary since 1989. Methodologically, we will proceed to determine to what extent or in what way ‘really existing Hungarian capitalism’ departs from an ideal-type (in the Weberian sense) neo-classical market economy, a social order in which economic processes are solely co-ordinated by market mechanisms. We will do so by establishing the importance of other relevant modes of governance, in particular the state’s employment and labour market policy, labour law and collective bargaining, what particular institutional form they have taken and how they constrain or enable market regulation.<sup>5</sup>

In addition, in order to understand why it is the present institutional configuration that has emerged and not another of the in principle infinite

<sup>4</sup> More generally, this view has been promoted strongly by Stark and Bruszt (1998).

<sup>5</sup> The contrasting of market governance with the other modes of co-ordination should not cause the impression that somehow market governance is given preference or is understood to be the ‘fundamental’ or ‘natural’ mode of governance of capitalist systems. Rather, it constitutes both a methodological choice and an attempt to counter the often used (implicit) argument that capitalism equals market economy.

variety of possible outcomes, we will discuss who the main domestic and international actors are that have been shaping institutional change in general and labour market institutions in particular, what their ideas, interests and policies have been, and in which institutional and socio-economic context they have been operating.

The remainder of this paper is divided into four parts. In the next section we will first discuss the role of actors, ideas and interests in the project of capitalism building. In section 3, we will briefly discuss to what extent policy making in the 1990s has incorporated neo-corporatist elements. In section 4 we will discuss in more detail the changes in labour market institutions (employment and labour market policy, labour legislation and collective bargaining) during the past decade. Finally, section 5 presents conclusions.

### **Building capitalism: politics, neo-liberalism and the EU**

In the early 1980s, most reform-minded Hungarian economists, sociologists and others, within the context of the perceived limitations set by the Kádár regime, strove for modification of the system from within. They discussed 'varieties of socialism' including a socialist 'mixed economy', socialist constitutionalism or democratic socialism, and debated about harmonising plan with market, improving redistribution or achieving independent interest representation (Bozóki 1999; Eyal *et al.* 1998). And indeed, substantial reforms were implemented. Enterprise autonomy was increased, certain private entrepreneurial activities became possible, and an important so-called 'second economy' emerged. In addition, Hungary became increasingly integrated in the international capitalist system as exports to capitalist countries increased, and it borrowed heavily from the West to build up the largest per capita foreign debt in the entire former state-socialist region.

Still, economic crisis continued to deepen during the 1980s. Managers and technocrats, more and more frustrated with the difficulties of making the economy work, as well as intellectuals that increasingly rejected the political limits imposed by the regime, started to study Western economic and political ideas and different strands of liberal political and economic thought emerged. They distanced themselves more clearly from the party and by the end of the 1980s they openly called for systemic instead of intra-systemic reform. This, they argued, would bring what socialism had failed to achieve. Political freedom would be increased and capitalism would bring prosperity for all, thus finally releasing Hungary from the peripheral position it had had for centuries within Europe and opening the doors to the core of the continent.

And the opposition, benefiting from the changing conditions in the socialist world, was successful. In 1989, the ruling party accepted that its days were numbered and agreed to a negotiated regime change, culminating in the Round Table Talks that took place between June and September of the same year. The Round Table talks turned out to be above all the occasion for the creation of the new political elite and of a political system dominated by political parties, at the expense of other organisations representing society (Stark and Bruszt 1998: 42-47). Other types of socio-political organisations (trade unions, corporatist organisations, mass movements) were weak and had only a marginal role in the Round Table talks. This is particularly true for trade unions who, although present in the Round Table discussions, practiced severe self-restraint, leaving it to political parties to shape the future of the country (Tóth 2000; Sajó 1996). This 'supremacy of political parties' (Stark and Bruszt 1998) has not been seriously challenged by any social groupings and has survived until today.

There has been no doubt among the new political elite that Hungary's future is 'Western capitalism'. They were joined in this quest by many of the managers of state enterprises who believed this would help to develop a more productive economy, while some also saw their chance to personally benefit from the systemic changes, clinging on to their position or forging profitable privatisation deals. It was this coalition then which, instead of Weber's protestant private entrepreneurs, became the bearers of the 'spirit of capitalism'.<sup>6</sup>

However, considering the wide variety of Western capitalist systems with quite diverse institutional characteristics, what has been the meaning of 'Western capitalism' in Hungary? The interpretation of 'Western capitalism' has first of all been influenced by the neo-liberal discourse that emerged in the West in the early 1980s and which had already attracted many in Hungary in the late 1980s. Also, the majority of Western political and intellectual elites and the international financial institutions tried to push neo-liberal reforms in CEE, through political pressure, 'expert advice' or loan conditionality. This is not to say that neo-liberalism was the only game in town. Indeed, there were diverse views on how Hungarian (and CEE) capitalism should look, both within the country and in the West. In Hungary in the early 1990s the term 'social market economy' was floated regularly, referring more to a Scandinavian or German type of capitalism than to the neo-liberal view

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<sup>6</sup> See Gil Eyal's analysis of the Czech Republic, where, as he argues, the historical agent bearing the 'spirit of capitalism' has been an unlikely coalition between dissident intellectuals and former communist technocrats (Eyal 2000). The case of Hungary is similar though not the same.

referring mainly to the US or the UK. Also, the ideas of Miterrand and Kohl on the best way to manage change in CEE differed markedly from those of the international financial institutions and the neo-liberal community (De Boer-Ashworth 2000). However, both failed to have a decisive influence on the main characteristics of policy making.

The influence of the neo-liberal paradigm was particularly strong in the early 1990s and was translated into a discourse that argued that the basic institutions of capitalism could be created through a very limited range of core reforms: macro-economic stabilisation, liberalisation of prices and trade, and privatisation. Their main objective was the institutionalisation of market governance, to be achieved through a programme of rapid reforms implemented by the state.

Added to the primacy of this core reform programme has been the ultimate priority given to accession to the European Union. Joining the EU has become so important to Hungary that ‘... the legitimacy of the transition itself depends on the success of EU accession (Andor 2000: 2)’. EU membership is seen as the final step in breaking with the state-socialist past and in joining the modern democratic-capitalist world. Additionally, it is expected to bring direct economic benefits coming from increased trade and exchange of knowledge and technology with western Europe or from the receipt of structural funds. Hence, since 1989, and in particular since the country’s application for EU membership in 1994, Hungarian governments have increasingly tried to adopt EU regulations and standards to prepare for membership. References to such regulations are regularly used to defend policy proposals and justify choices. This has also contributed to the broadening of the outlook of reforms as the scope of EU regulations and conditionality goes far beyond the narrow economic approach towards reform of the international financial institutions.

Within the broad limits set by the neo-liberal philosophy and the requirements of the EU accession process, then, the reform programmes of the three post-1989 governments have all seen certain variations on and sometimes also contradictions to the main theme. These have to an important extent been shaped by particular local circumstances, institutional constellations and interests, which have favoured certain directions of developments and constrained others. For example, the first post-socialist government, fearing the reaction of the society it hardly had any ties with, tried to reserve the right to bail out enterprises in need when this was deemed socially or politically desirable, and, above all, tried to limit the decline in wages and living standards (see Stark and Bruszt 1998: 42-47). We will see more examples of this below.



## Elements of neo-corporatism?

The above does not mean to imply that political parties have completely insulated decision making from other socio-political organisations. Indeed, a number of national-level and decentralised institutions have been established since 1989 through which socio-economic governance was to be co-ordinated with other actors, primarily the social partners (Keune 2001; Héthy 1999 and 2001; Tóth 1999). The most prominent of these was the Interest Reconciliation Council (IRC), a national-level tripartite organ and the country's key institution for social dialogue in the period 1990-1998.<sup>7</sup> The impact of these bodies, and through them of the social partners, on policy making has however been limited as can be demonstrated through the example of the IRC. Firstly, the IRC was dominated largely by the government. Unions and employers have experienced serious problems, including internal fragmentation and conflict, low and declining membership, legitimacy problems, difficulties in organising small enterprises and foreign enterprises, and others (Tóth 1999; Kollonay Lehoczky and Ladó 1996). These factors have seriously weakened their position and made it difficult for the social partners to enforce IRC agreements internally and to put effective pressure on the government. They needed the IRC to *gain* legitimation, instead of having conquered their place on the Council because of their own strength. The issues for discussion as well as the boundaries within which negotiations or consultations were to take place were primarily defined by the government, whose voice prevailed if no agreement was reached. As a result, the influence of the Council on economic and social policy formulation,

‘...has been limited to a relatively narrow range of issues and has concentrated on short-term measures rather than strategic decision making. Council agreements were designed to help maintain “social peace”. In this respect they have been relatively effective although their impact on the broader parameters of economic and social policy has been fairly marginal (Héthy 1995: 87).’

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<sup>7</sup> Other institutions in which workers and employers participated in 1990-1998 include: (i) the tripartite Labour Market Fund Steering Committee established in 1997 to manage the Labour Market Fund, as well as county level Labour Market Councils concerned with the decentralised resources of the Fund; (ii) the County Development Councils managing decentralised regional development funds; (iii) the bipartite Self-Governments of Health and Pension Insurance; and the Interest Reconciliation Council for Budgetary Institutions.

Secondly, although both the Antall government (1990-1994) and the Horn government (1994-1998) claimed to promote tripartism, in several instances they simply ignored the other two parties, tried to undermine their positions and reversed agreements. The Antall government actively tried to weaken trade unions and neutralise them politically (Bruszt 1995). It particularly tried to weaken the MSZOSZ, the 'successor' union and the largest confederation in the country, which it regarded as an unwelcome relic from the previous system. Also, in many instances the government has acted in contradiction with agreements reached and has prevented them from coming into force (Kollonay Lehoczky and Ladó 1996: 127; also Héthy 1995). The Socialist Party had during the 1994 election campaigns practiced a strong discourse of social partnership, and the Socialist Party had strong institutional links with the MSZOSZ. In line with this, during the first months of the governmental period, it set out to negotiate a 4-year Social and Economic Agreement in the context of the IRC (Héthy 1999: 60). However, the proposals of the government met with serious objections above all from the unions and no Agreement was signed. Subsequently, after the foreign debt payments had led to an increasing budget deficit and after severe pressure from the IMF, the government unilaterally imposed a draconian austerity package, which represented a victory of the liberal wing of the socialist party and a devastating defeat of the party's leftist groups, including many trade union leaders. It did not mean the end of the IRC however and during 1996-1998, apart from setting the minimum wage and issuing recommendations on wage increases, a series of agreements were reached on issues like the establishment of the Labour Mediation and Arbitration Service, the Labour Inspection Act, the establishment of the Labour Market Fund Steering Committee, and pension reform (*ibid.*).

Summarising, in 1990-1998, tripartism in Hungary was a mechanism in which the social partner organisations exchanged social peace for a certain amount of legitimacy and only to a limited extent for the possibility to influence government policy, which was also restricted largely to narrowly-defined labour issues. However, while in the first two post-1989 government periods at least some corporatist elements could be found, these vanished rapidly under the Orbán government (1998-2002), which rejected any corporatist attempts, and aims to marginalise the tripartism and to further weaken in particular the unions (Boda and Neumann 2000; Tóth 1999; Héthy 2001). In 1999, the government dissolved the IRC and replaced it by the National Labour Council (NLC) which has much more limited competencies. In addition, it deprived the NLC of its exclusive right to set the minimum wage, assigning this to itself

in the case of the NLC not being able to reach agreement, effectively eliminating the tripartite nature of minimum wage setting. As a result, Hungary's tripartite experiment seems to be on the verge of being exhausted.

## **Changing labour market institutions: state policy, labour legislation and collective bargaining**

In this section we will discuss three main groups of labour market institutions and the shape they have taken in the period 1990-2000, within the context of the processes discussed in the previous section. We will first deal with employment and labour market policies, then with the role of labour legislation in regulating collective and individual employment relationships, and finally with collective bargaining. As mentioned in the introduction, the focus here will be on the question of to what extent or in what way the labour market in Hungary departs from an ideal-type neo-classical labour market in which economic processes are exclusively co-ordinated by market mechanisms.

### **1. The role of the state in the labour market: employment and labour market policy**

One of the central questions in the analysis of labour market regulation concerns the role of the state. This has many dimensions. One is the state's involvement in the definition of the legal environment in which labour market action takes place, a subject that will be discussed in section 4.2. Another is the state as an employer. With privatisation high on the agenda, obviously this role has become less and less important during the 1990s. However, in 1999, some 40 per cent of the employed one way or the other had the state as their employer and this figure had not changed much since 1996 (Laky 2000: 29). This includes employees in public administration and large parts of education and health care, but also railway, bus and air transport companies as well as companies owned by the State Privatisation and Assets Management Holding (*ibid.*). Clearly, its status as employer makes the state a crucial player in the labour market.

The state also plays an active role in the economy through employment and labour market policies. Two questions are of interest here. One is the extent to which employment objectives play a role in the conception of state policy. The other is the way it deals with the problem of unemployment. The importance of these questions is underlined by the fact that one of the most characteristic features of socio-economic developments in Hungary has been the enormous contraction of employment. In the first 4 years of the 1990s, in

the context of an 18.2 per cent fall in GDP, no less than 30 per cent of employment disappeared and employment continued to decline slowly until 1997. Since then it has only increased marginally. Indeed, the fall in employment in Hungary has been the largest in the entire CEE region in the 1990s (Nesporova 1999). The main part of those losing their job have left the labour market to become inactive, in particular older workers, frequently through early retirement arrangements. A much smaller share has become unemployed.

Now how has the state approached the problems arising from this enormous employment decline? Undoubtedly, in the early 1990s, employment objectives were doomed to a marginal place in economic policy as a whole (Frey 1997: 110). The objective of full employment, so characteristic of state socialism, was deemed unrealistic and it was argued that in a capitalist system the government has no role in stimulating labour demand. In this context, the government's employment strategy elaborated in March 1993 stated the following:

'Even though the state takes a significant role in lessening labour market tensions, we have to make the people realise that there is no such thing as full employment in a market economy, since it could only be achieved via a massive direct and administrative state intervention, which is in total contradiction to the basic principle of a market economy, thus irreconcilable with its functioning (quoted in Frey 1997: 80).'

There was a quite genuine belief in the 'power of the market' and expectations were that employment declines, anyway considered as inevitable, would be compensated for very quickly by large numbers of new jobs emerging in the private sector. Only towards the end of the Antall government, when the employment situation had already deteriorated dramatically, employment objectives became slowly included in general economic policy making. Still, direct employment creation measures largely remained outside the scope of policy. Rather, the state would aim to promote employment indirectly, through the promotion of economic activity and investment. Policy would then include, for example, tax incentives, financial incentives forming part of its regional policy, or the adjustment of the educational system to labour demand.

Little would change in this respect under the Horn government. Under its 1995 austerity package it downsized public expenditure, limited social benefits and drastically cut real public sector wages. The austerity package reflected an economic philosophy which gave absolute priority to macro-economic stabilisation, the balancing of the budget and privatisation as the goals of

economic policy, instead of the stimulation of economic growth, employment growth and income maintenance. Again it was mainly the market who was charged with the creation of employment, while the state assigned itself the role of creating what it deemed the proper conditions for the market to do so.

The Orbán government, in its first two years in office basically continued the line set out by the previous governments. A change of discourse took place in early 2000, when in his annual state-of-the-nation address Prime Minister Viktor Orbán claimed that, in 1999, Hungary had definitely left behind its state socialist past and had created a Western-type market-oriented society with a viable, modern and competitive economy (Budapest Sun 4 February 2000). He announced that, although it wanted to maintain a balanced budget, it also wanted to raise government expenditure to stimulate economic growth and increase wages. The political state secretary of finance went as far as to claim that the Orbán government was dominated by neo-Keynesian economists supporting an active role for the state (ECONEWS 21 September 2000). However, while there did indeed seem to be certain new elements in the policy of the Orbán government, in particular the increase of state subsidies to stimulate investment, it above all represented continuity of the core policies of the two previous governments and remained focused primarily on supply side measures. Specific employment objectives that came to the fore in the discourse of the Orbán government, following discursive developments in the EU, were the increase of the employment rate and the increase of labour market flexibility, including the promotion of part-time and temporary employment.

One of the more direct ways the state has been influencing labour market processes is through its labour market policies. These have included a series of labour market services and job assistance activities varying from training for the unemployed, to support to unemployed persons in becoming entrepreneur and to subsidised employment. In 1989, the first unemployment benefit scheme was introduced, financed from the state budget. In 1991, the Employment Act introduced an unemployment insurance scheme with a benefit period of maximum 2 years and a benefit rate starting at 70 per cent of the previous wage. Unemployment benefit criteria were then adjusted on several occasions, generally to the detriment of the unemployed as they mostly tightened the level of benefits, the duration of benefits and the respective eligibility conditions. By early 2001, the maximum duration was 270 days and the rate of benefits amounted to 65 per cent of the average earnings in the previous four years.

The changes in benefit criteria reflect both budgetary considerations and a changing attitude to the phenomenon unemployment as such. While in the late 1980s and early 1990s unemployment was largely considered to be a transitory problem that would be solved by the dynamism inherent to capitalism, it soon became clear that unemployment was here to stay. A clear sign of this is the continuing existence of a rather stagnant pool of long-term unemployed persons. This led among other things to the introduction, in 1992, of unemployment assistance for those who had exhausted their unemployment benefits and who live in households with a very low income per head. More in general, there seems to be a move away from legally guaranteed rights to unemployment benefits towards an increasing emphasis on workfare and employability. It is indeed telling that between 1990 and 2000, the percentage of registered unemployed persons receiving unemployment benefits has plummeted from 77.6 per cent to 32.9 per cent. This while the number of registered unemployment has fallen every year since 1992. Thus, the role of unemployment benefits in income protection eroded gradually over the years. Unemployment assistance for those having exhausted such unemployment benefits reached its highest coverage in 1996, no less than 44.3 per cent of registered unemployed, to decline to 27.2 per cent in 2000.

Labour market policies have also included a range of so-called active programmes, which are designed by the tripartite Labour Market Fund Steering Committee. More than 300,000 persons participated in one of these programmes in 1999 for one or more days, up from some 150,000 in 1992 (Laky 2000). Labour market training is one important programme, involving around one-quarter of the total number of participants in 1999. Most other programmes create or subsidise employment in one way or the other, including public benefit employment (e.g. communal services), wage subsidies, subsidies to job-creating investments and school-leaver programmes. On average, around 80,000 persons were employed with the support of these programmes in 1999. While this is indeed only a fraction of the working population (some 2 per cent), the absolute number of jobs is not unimportant, nor should the contribution of such programmes in employing certain vulnerable groups be underestimated.

Lately, in the context of the application process for EU membership, Hungarian employment and labour market policy are acquiring a European flavour. The country and the European Commission have conducted their first joint assessment of employment policy priorities, including a long series of (often vaguely formulated) commitments and tasks. Also, recently Hungary developed its first National Employment Plan in line with the four pillar

European Employment Strategy. For the moment it remains unclear however to what extent these are cosmetic changes or real innovations.

Summarising, the state has a pivotal role in the labour market as an employer. In the competitive sphere, however, increasingly it has limited itself to the definition of conditions within which employment creation and the matching between labour demand and supply is governed by market mechanisms. Through privatisation it has diminished its presence in the competitive sphere, albeit remaining strong in certain sectors. The state stimulates employment creation mainly indirectly, through investment subsidies or tax benefits for investors, and through regional development programmes. For the unemployed it provides unemployment benefits but only to a small and declining share of them. Finally, through labour market policies it contributes, in co-operation with the social partners, to the creation or continuity of a small but important fraction of employment, attending the needs of certain vulnerable groups.

## **2. Labour legislation**

In 1989, following the Round Table Talks, amendments to the Constitution produced the first main changes in labour law as they included the right to strike and the freedom of association. In spite of strong anti-unionism and enthusiasm for liberal values prevailing at that moment of time, the Constitution preserved certain provisions protecting workers' rights, mainly because of the significant role of international standards and the drive to harmonise legal norms with those of the European Union (Kollonay and Ladó 1996: 112-113; also Horváth 1991). The constitutional changes triggered a real shake up of labour legislation, resulting eventually in a profound redefinition of the legal framework that institutionalises individual and collective labour relations. This started in 1989-1991 with a series of new laws concerning labour relations, several amendments to the Labour Code and the close involvement of the Constitutional Court in labour regulating (Tóth 1999; Kollonay and Ladó 1996; Kollonay 1991; Nagy 1996). One of the major modifications to the Labour Code was the extension of the right to collective bargaining to public services and the introduction of the modality of multi-employer collective agreements and national-level framework agreements. The intention of the modification was to promote collective bargaining as such and to extend the coverage of collective agreements (sectoral, national) to small enterprises where no unions were present. At the same time, the Constitutional Court produced a series of rulings concerning the rights and position of trade unions. Initially, and in line with the initial stance of the first post-socialist government outlined

earlier, the Court seemed out to ‘demolish’ trade unions as undesirable leftovers from the past and failed to ‘...distinguish between the general function of trade unions and the role they performed under Communism (Kollonay and Ladó 1996: 115).’ Only after a year or two did the Court become involved in a more balanced and creative attempt to reorient trade unionism instead of only attacking it (*ibid.*; Tóth 1999).

Obviously, these two tendencies in the early 1990s, one being the promotion of collective bargaining and the other the attempts by the government and the Constitutional Court to weaken trade unions, were in contradiction with each other. While the legal framework for collective bargaining was further developed, the position of what should be one of its main actors, the unions, was under fire. As we will see later on, this is one of the reasons collective bargaining in Hungary has never developed into the strong institution it was supposed to be.

The legal regulation of collective and individual employment relations finally became more consolidated with the adoption of a new Labour Code. The new Labour Code, adopted in 1992 and amended on many occasions since, had two main objectives: (i) to deal with the persisting industrial relations crisis; and (ii) to establish a new system of labour regulation in line with the new economic and political system and with Hungary’s aspirations in terms of international institutional integration.<sup>8</sup> It put in place a new legal framework governing individual and collective labour relations.<sup>9</sup> The main characteristic of the Labour Code is that it provides a legal framework which defines a series of minimum standards concerning the minimum wage, regulations on wage supplements, working time arrangements, holidays, dismissals, and others. Placing clear limits on statutory employee protection and the influence of the state, it leaves it up to the individual or collective contractual partners to determine actual working conditions and it foresees an important role for institutions representing employee interests. The latter are modelled largely on the German industrial relations system and consist of three channels of representation (Tóth 1999; see also Prugberger 1998): the Works Council; workplace level unions; and multi-employer collective bargaining combined with the possibility of extension of collective agreements to non-participating

<sup>8</sup> When reference is made to specific passages of the Labour Code this concerns the Code’s text as it stood at 31 March 2001 unless otherwise indicated.

<sup>9</sup> The Labour Code has general applicability to all spheres of activity. However, for the so-called competitive sphere it is the only law in this area while two additional acts were adopted for the public sphere: the Public Servants Act, corresponding to public services (education, health services, etc.); and the Civil Servants Acts, concerning the state administration. These two Acts regulate labour relations in more detail than the Labour Code. Here the discussion will focus on the latter.



enterprises in the same industry. In addition, the Code provides for interest representation at the national level through the Interest Reconciliation Council, later the National Labour Council.

Employee protection thus depends to a large extent on the strength and legal rights of these institutions representing employee interests. This is where the Hungarian system deviates from its German counterpart, becoming a hybrid rather than a copy. Hungarian Works Councils are only equipped with very limited co-decision rights and are above all consultative bodies with a minor role in the enterprise. Also, as discussed before, the unions are weak and the IRC (later NLC) has only limited legal competencies.

As far as collective bargaining is concerned, legislation provides ample opportunities to conclude workplace and multi-employer collective agreements. Clearly, the legislator envisaged an important role for collective agreements, at the workplace level but even more so at the industrial and sectoral level. Collective bargaining is actually directly promoted by certain articles in the Labour Code. In general the principle of the Code is that collective agreements can only deviate from its stipulations in favour of the employee. However, many exceptions to this general rule allow workplace collective agreements to specify working conditions less favourable to the employee than those stipulated in the Code. Multi-employer collective agreements have received even greater possibilities for such deviations. Nevertheless, as we will see in section 4.3, both the scale and scope of workplace and collective agreements are limited, multi-employer collective agreements have hardly developed, and the instrument of extending collective agreements has hardly been used. This leaves the definition of working conditions in the competitive sphere principally to the individual employment contract concluded between the individual employee and employer, two parties between which a structural asymmetry of power exists.

How is this individual employment relationship regulated in the Labour Code? The general philosophy laid down in the Code is, with only few exceptions, indeed one of a set of minimum standards, leaving the definition of the actual content of the employment relationship to the partners in the employment contract, i.e. to the market. It provides ample possibilities for flexibility, mostly for the benefit of the employer, and provides only minimal security to the employee. A few examples will suffice.

The law provides the employer with ample flexibility to employ the employee according to his/her needs, also outside his/her official duties or at another employer. In terms of time flexibility the employer can design extremely flexible working time schedules in which the employee works between 4 and

12 hours a day, as long as the average working hours are equal to the normal working hours. In addition, work can be organised according to two-shift, 3-shift, split-shift or non-stop schedules and the employer can order up to 144 hours of overtime yearly (or 200 hours if by company collective agreement and 300 hours if by multi-employer collective agreement). Fixed-term contracts can be concluded for a period up to 5 years, while trial periods can be fixed for a period up to three months by agreement between the parties or by collective agreement.

Employment exit is regulated more extensively. In the case of ordinary dismissals a legal notice period of between 30 and 90 days applies, depending on the length of employment, and this notice period can be extended to a maximum of one year by agreement between the parties or by collective agreement. The employer must justify the dismissal and the employee has the opportunity of defence, introducing a substantive element into dismissal protection. The employee is also entitled to severance pay, which depends on the length of employment. Ordinary dismissal is not possible in certain cases related to sickness, nursing, maternity and army services. Particular protective regulations apply to pregnant women and women on maternity leave.

As far as wages are concerned, regulations are largely limited to two subjects. One is that they establish a minimum wage, to be specified regularly by the NLC or, alternatively, by the government. Certain exemptions apply, in particular concerning minors, partially disabled or part-time workers. The other is that they define a series of supplements for overtime, shift work or work during holidays.

Hence, there are few legal constraints on the definition of the content of the individual employment relationship, possibly the most important ones being dismissal regulations and the minimum wage. Obviously, because of the inherent power asymmetry between employer and employee this leaves the latter in a rather disadvantaged position. In theory this could be softened by the conclusion of collective agreements at various levels of the economy and indeed the legislator has to a certain extent aimed to promote such practices. However, with little success as we will see in the next section.

A factor that has gradually become more important in labour legislation is the EU accession process. Applicant countries are basically expected to adopt the formal EU directives, standards and guidelines laid down in the *acquis communautaire*, which includes a number of directives in the sphere of labour law. While the adoption of EU standards has implicitly been part and parcel of legal reform since the early 1990s, it has become more explicit since the accession negotiations between the two parties started in 1998. In the past few

years Hungarian labour legislation has been aligned with the *acquis* with respect to a wide variety of subjects including collective redundancies, the transfer of undertakings, health and safety of temporary workers, equal pay for men and women, certain aspects of working time, European Works Councils, and many others. Following the complex and sometimes contradictory nature of EU policy and regulations, the impact of the *acquis* on labour market governance in Hungary is not unidirectional. The adoption of EU directives has primarily translated into an extension of employee protection and the strengthening of the role of collective actors, thus constraining market governance. However, at the same time, the *acquis* aims to foster labour market flexibility and competition, resulting in the promotion of market co-ordination.

### 3. Collective bargaining

Apart from state policy and labour legislation, a third mode of governance which can potentially play an important role in the regulation of labour markets is collective bargaining, formalised in collective agreements. As mentioned earlier, Hungarian labour law does not pose any real obstacles to collective bargaining, with the exception of civil servants, who are not entitled to conclude collective agreements. Indeed, collective bargaining was given an important place in the conception of labour law. However, it has also been pointed out in the above that the position of trade unions and employers' organisations has been weak ever since 1989. Thus, while on the one hand collective bargaining has been assigned an important role in industrial relations and has been made possible (and to some extent promoted) by the law, on the other hand the main actors in the process of collective bargaining have seen their position weakened substantially ('old' trade unions) or have never managed to conquer a position of strength (employers' organisations, 'new' trade unions).

A recent overview of the coverage and content of collective bargaining in Hungary is presented in Nacsá and Neumann (2001). They show that in 1999, single-employer collective agreements covered just over one million employees, with a coverage rate of 39.3 per cent in the case of enterprises with more than five employees in the non-budgetary sector and of 34.5 per cent in the case of the central and local public employees. The coverage of multi-employer agreements, the authors show, is much lower, 17.9 per cent for the non-budgetary sector and 0.3 per cent for public employees. Hence, the Hungarian system of collective bargaining is a decentralised system in which the enterprise level is of prime importance while sectoral and national-level

bargaining are only of secondary importance (Neumann 2000) and complementary in nature (Tóth 1997). Because of overlapping between the two, then, total coverage of collective agreements is some 42.4 per cent of all employees. And although detailed information on the coverage of collective agreements has only been available since 1998, it seems that it has not varied dramatically during the 1992-1999 period (Nacsa and Neumann 2001).

Information on the content of collective agreement is scarce. Nacsa and Neumann (2001) present an overview of the issues regulated by single-employer collective agreements in the non-budgetary sector and show that 63 per cent of them (covering 79 per cent of employees covered by such collective agreements) include wage/payment stipulations. Thus, one-third of collective agreements does not have any effect on wages. Only 24 per cent of the collective agreements (covering 47 per cent of the employees falling under collective agreements) include agreements on the increase of basic wages/salary; only 2 per cent have agreements on the increase of average earnings; and 22 per cent (covering 34 per cent of employees) include more or less detailed tariff agreements by employee categories (*ibid.*). Apart from this, in the non-budgetary sector, the individual wages of employees covered by collective agreements are only 3-5 per cent higher than those of comparable employees not covered by collective agreements (Neumann 2001). Thus, in terms of wages the regulative function of collective agreements is limited both in coverage and scope, leaving the definition of wages to a large extent to the individual negotiations between employer and employee.

As far as other areas of regulation are concerned (those touching upon procedural rules, industrial relations, the settlement of labour disputes and the regulation of the employment relationship), Nacsa and Neumann (2001) find that in many instances collective agreements simply repeat the stipulations of the law. A good example is that all collective agreements deal with the probation period at hiring but only 45 per cent of them include regulations different from the law. Also, in many cases collective agreements stretch the issue of employee protection, using the exemptions offered by the law. For example, in 82 per cent of them the upper limit of the number of overtime hours that the employer can order is increased. Based on these characteristics, then, the authors conclude that, 'the majority of enterprise collective agreements cannot be considered a workplace-level regulation strictly prescribing the conditions of individual employment.'

## Conclusions

Institutional change in Hungary since 1989 has been shaped by a number of particular national and international actors, their ideas and interests as well as the institutional and socio-economic context inherited from the past. At the centre has been the new political elite, which in the 1980s started to develop a taste for capitalism in reaction to the increasing failure of the state-socialist regime. After 1989, their orientation toward economic reform rapidly became dominated by neo-liberal ideas, also among many leaders of the socialist party, under the influence of the neo-liberal discourse dominating the international community, because of direct pressure from the IMF, and because of budgetary problems related to the enormous foreign debt developed under the previous regime. The political elite's main mission then became the state-led institutionalisation of market governance. Other socio-political organisations largely had a marginal role, in particular the trade unions who failed to claim their place in the new political scheme during the Round Table talks and who suffered from legitimacy problems, infighting, low membership and attempts by the various governments to undermine their position.

Still, this does not mean the various governments implemented clear-cut neo-liberal programmes. In some instances, 'fear of society' made them reluctant to implement too restrictive social policies. Also, some elements of the former regime, including the extensive state ownership and social rights were not easily disposed of. In addition, through the IRC the social partners had some influence on the government in 1990-1998, not so much on general socio-economic policy but rather on specific labour issues. And finally, during the decade, gradually the influence of the EU, formalised in the requirement to adopt the *acquis communautaire* before accession, has become stronger, pushing both towards deregulating and a re-regulating.

To what extent does the above apply to the particular area of labour market institutions? How have state employment and labour market policy, labour legislation and collective bargaining developed and to what extent do they contradict market governance? As far as the direction of institutional change is concerned, in general terms we can conclude that market regulation is increasingly dominating the labour market, that the state is more and more shifting its role towards the creation of the conditions to allow for market regulation, and that unions and employers' organisations have failed to achieve the prominence they were expected to achieve in the early 1990s. Indeed, employment creation is increasingly left to the market; the level, length and coverage of unemployment benefits have been downscaled; labour legislation only sets minimum standards and allows for high levels of flexibility; and

collective agreements have only a small effect on wages and their content often does not deviate from the minimum standards of the law or even stipulates regulations less beneficial to employees. Non-market institutions less and less influence the content of the employment relationship and more and more leave it up to the individual employer and employee to establish employment conditions. This obviously leaves employers in a strongly advantageous position over employees, not in the least in terms of defining or imposing flexibility, while employment security is low. Also, it is increasingly up to the individual to deal with problems related to unemployment. Thus, it seems Hungarian labour market institutions increasingly move towards what is generally understood to be a deregulated model of labour market governance.

However, concluding that institutional change has simply established market dominance would not do justice to the complex and multifaceted nature of Hungarian labour market institutions. This because at the same time there are a number of elements that do constrain market regulation quite a bit. This is first of all underlined by the simple fact that the state acts as employer for some 40 per cent of the working population. Also, through labour market policies the state subsidises a small but important fraction of employment. In addition, labour legislation, minimal as it is, does put important constraints on dismissal, includes a minimum wage and contains several regulations aimed at promoting collective bargaining. In the context of the EU accession process we can also observe a certain (albeit limited) tendency towards re-regulation stemming from the alignment of labour legislation with the *acquis communautaire*. Finally, collective agreements cover some 42 per cent of employees. This is low in comparison with most western countries (except for the US and the UK) but far from insignificant.

Concluding, then, if we conceive of labour market regulation as a mix of various types of governance (the ones discussed in this paper being the market, the state and associations), building Hungary's variety of capitalism in the 1990s has mainly been about the institutionalisation of market governance. This process has however had the state as a key player, acting as a promoter and guarantor of market governance without which market co-ordination would not be able to operate, and constraining market governance through its employer function and in certain forms of employee protection. Also collective bargaining continues to play its part and its coverage seems to have stabilised. Finally, the influence of workers' and employers' organisations on policy making reached its lowest point since 1989 under the Orbán government. However, because the policy-making role of the social partners does not so much depend on their own strength but rather on the government

in power, it may well rebound in the coming years under the new administration that took office in May 2002.

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