

Diverting Welfare Paths: Ethicisation of Unemployment and Public Work in Hungary

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1. Introduction

A new vision of ‘illiberal democracy’ was introduced by the Orbán-led Fidesz government in the 2010s, which marked the end of the welfare state, and the central element of the political discourse became the creation of a labor-based society. Their landslide victory allowed the Fidesz-KDNP coalition to re-codify major policy areas with no opposition, while triggering substantial attention from national and European institutions due to the removal of democratic guarantees from political processes.⁴ Major legislative bills were adopted in the social and labor fields, providing more flexibility while removing substantial elements of security.

A major characteristic of Orbán’s employment and social policies is the workfare model. The new direction in employment and social policy was anchored in the Fundamental Law of Hungary, stating that “everyone shall be obliged to contribute to the enrichment of the community through his or her work, in accordance with his or her abilities and potential. Hungary shall strive to create the conditions that ensure that everyone able and willing to work has the opportunity to do so.”⁵ The Labor Code adopted in 2012 further paved the road for the workfare regime and brought in a wide range of deregulations, and increased labor market flexibility, while severely curtailing collective labor rights (Kollonay-Lehoczky 2013) and destroyed national level social dialogue (Gyulavári and Kártyás 2016).

Even though Hungary’s economic performance has been quite strong in the past few years and robust economic growth has been witnessed with one of the highest GDP growth rates in the EU, the newly introduced social reforms dismantled the welfare state, and started to build a new regime (Jakab, Hoffmann and Könczei 2017), characterized by social disinvestment, which is rooted in the neoliberal scheme (Abrahamson 2010). Radical austerity measures were introduced to mitigate the negative effects of the crisis; however, these

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⁴ Some examples are the European Commission for Democracy through Law (Venice Commission), *Opinion on three legal questions arising in the process of drafting the new constitution of Hungary* (No 614/2011, 28 March 2011) (Venice Commission Op 614/2011); *Opinion on the new Constitution of Hungary*, (No. 618/2011, Venice, 17-18 June 2011) (Venice Commission Op 618/2011); European Parliament resolution on the Revised Hungarian Constitution [2011].

⁵ Fundamental Law Article XII paras (1) and (2).

appeared in the political discourse as necessary steps to cut back overly generous social benefits which discourage people from entering the labor market (Horváth, et al. 2020). As disincentives, unemployment benefits were minimized, and compulsory public works programs were introduced (Hungler and Kende 2019). Overall social spending has been cut drastically since 2010, social assistance schemes have been terminated, and major changes were introduced to the disability pension system. Self-responsibility became the guiding principle in social policy as well, replacing collective protection by individualistic and often punitive schemes.

The image of a 'hard-working people' whose wellbeing is jeopardized by lazy welfare recipient were mainstreamed in public media. Populist rhetoric often blames the Roma for all the hardships experienced in the social services. The Roma are often depicted in official statements as lazy and purportedly living on benefit. Public work regulations put a disproportionate burden on the Roma unemployed, interfering with their private sphere, such as the maintenance of their homes, while disregarding the contributing factors leading to their material deprivation, such as segregation and a high ratio of drop-outs in schools.

This paper examines the new direction in employment and unemployment policy measures, a policy terrain where the workfare regime can be best detected. We put a special emphasis on Roma minority and how their employment situation is effected by the anti-welfare turn.

2. Methodology

The paper uses mixed methodology; the first part is a legal analysis of the relevant Hungarian regulations and policy measures. The second part relies on empirical research on public employment of Roma people based on a range of Hungarian and international academic and policy sources in tandem with purposely designed interviews. Four individual interviews and two group interviews were conducted in March 2017. Two were conducted with local mayors. One of them is the mayor of a small city in Western Hungary. He has Roma origin and is member of one of the opposition parties. The other one is the mayor of a very small deprived village in North-Eastern Hungary. Further individual interviews were conducted with the leader of a local Roma NGO organizing public work for the people in a small village in North-Eastern Hungary and a lawyer of the Commissioner for Fundamental Rights and his Office. Group interview were carried out with, first, two people from a public work trade union⁶ in Budapest

⁶ Hungary has a relatively low level of union density. Union relationships with government changed after the election of 2010, which produced a landslide win for the FIDESZ-KDNP coalition. The trade unions are largely ignored and the official tripartite structures were dismantled. (<https://www.worker-participation.eu/National-Industrial-Relations/Countries/Hungary/Trade-Unions>) In this situation, the public work trade union is one of the least influential trade unions today. The public work trade union

and, second, Roma women working in public work scheme in a small deprived village in North-Eastern Hungary. Requests for interviews were sent to state officials, such as the Secretary of State for Employment in the Ministry of National Economy, but remained without answers.

3. The 'Workfarist' Turn in Hungary

Before the outbreak of the global financial crisis in September 2008, Hungary managed to achieve substantial fiscal consolidation gains and the general government deficit shrank from 9.4% in 2006 to 3.7% of gross domestic product (GDP) in 2008. However, following the outbreak of the crisis Hungary faced one of the most severe recessions among OECD countries (and among other transition countries) with a steep fall in the real gross domestic product in 2009, which was double the OECD average (OECD 2010). Hungary received financial assistance from international organizations, but the recession left deep marks. A crisis intensified the effects of the collapse in trade on investor-confidence in forint-denominated assets. To ease the devaluation pressure, a combined credit package of EUR 20 billion was granted in November 2008 by the International Monetary Fund, the European Union and the World Bank. However, unlike in Greece, financial aid was not directly linked to austerity measures and labor law reforms.

The recodification of labor law had three major economic reasons, which were described in political statements.⁷ First, it was argued that the Labor Code which was in force at that time still maintained regulations which fit the market dominated by large companies, inherited from the state socialist era. Thus, a new Labor Code was needed, meeting the contemporary needs of the (neoliberal) market economy. Second, it was claimed that the economic recovery needed the most flexible labor market in Central-East Europe, because intense flexibilization would enhance job creation in sectors which are dominated by small and middle-sized companies.⁸ Third, less stringent labor regulations – especially for dismissal and damages – would strengthen the employers' position, which would serve as a compensation for the disadvantages they had faced during the economic crisis (Kun 2014).

The arguments were centered around the need for a major social and economic transformation. As the Prime Minister stated in a conference speech in the World Economic

became widely known when they organized a so called "Work, Bread" march in 2013. They said that that it was the inflexibility and inhumanity of this country's government which moved them to launch their protest.

⁷ The 'Hungarian Work Plan' and the 'Széll Kálmán Plan' on the restructuring of the economy were announced by the government in 2011.

⁸ There were many press releases dealing with this issue by Viktor Orbán and Péter Szijjártó, then spokesperson of the Prime Minister. See, for example, Hungarian News Agency: "Gyurcsány: a kormány rosszul teszi a dolgát" HVG (17 May 2011), available at: https://hvg.hu/itthon/20110517_orban_kormany_gyurcsany_ferenc.

forum in 2011, “reducing unemployment is a matter of life or death for Hungary ... to achieve our goals we need a complete reform of the labor market and the restructuring of the economy.” This argument was complemented later with the rejection of the welfare society. Orbán stated many times that Hungary was deconstructing the welfare state, which lacked competitiveness, and instead building a work-based society in which no one would deserve any support from the state unless he or she contributed to the economy.⁹

Against this background, the new Hungarian Labor Code came into effect in 2012, with the main objective of increasing the employment rate by promoting employers’ competitiveness.¹⁰ These interventions to the labor law as a response to the economic crisis were communicated as quick and decisive responses to employers’ needs, as a result of which Hungary would be able to speed up its recovery.¹¹ Flexibilization was based on the legal policy argument of approximating labor law to private law, while the changing social and economic background was largely ignored. The crucial question concerning the success of this governmental policy was whether these new flexible rules would serve the ‘work-based economy’ as envisaged by the Fundamental Law and create ‘1 million new jobs within 10 years’ as promised to people in Fidesz’s electoral campaign in 2010.

3.1. Social Reforms Supporting the Workfare Model

The social welfare subsidy system was also subject to major changes in 2015 (Jakab, Hoffmann and Könczei 2017). The range of individuals qualifying as beneficiaries for regular social aid was altered, and those who will reach the age limit for an old-age pension in five years are no longer entitled to regular social aid, and need to participate in the public work program. Since in this particular age group, the chances of finding employment in the primary labor market are meagre, this signals that this is not a genuine employment policy measure but rather a disguised social policy instrument. Regular social aid was abolished. Instead, ill health benefit and childcare benefit were introduced, but the conditions for eligibility have remained similar. Those who cannot participate in the public work program due to health issues and are not entitled to an invalidity pension are eligible for an ill health allowance.¹² Two

⁹ Hungarian News Agency, “Orbán: nem jóléti állam épül” (18 October 2012), available at: https://www.napi.hu/magyar_gazdasag/orban_nem_joleti_allam_epul.534599.html. Another example is this speech on GLOBSEC 2015 conference, available at: <https://www.youtube.com/watch?v=aVBARcSli3Q&feature=youtu.be&t=3653>. This speech is also memorable for two more reasons: the Prime Minister announced that Hungary does not welcome migrant workers and wants to solve its labor shortage “on a biological basis”, projecting a new demographic policy; and also he compared the Hungarian economic model to a pornographic movie by saying that nobody is able to define it, but immediately recognizes it once they see it.

¹⁰ Explanatory memorandum attached to Act No I of 2012 (Labor Code).

¹¹ Explanatory memorandum attached to Act No I of 2012 (Labor Code).

¹² If the capacity to work is reduced by at least 60 per cent.

additional benefits were terminated: housing benefit and debt settlement support. Regarding eligibility for passive measures, there is an additional criterion - the overall financial situation of the family of the applicant. Since these passive measures are intended to provide support for jobseekers and their families as a last resort, only those who are below the poverty threshold are eligible for these allowances.

Means testing means the official process of measuring how much income and property a person has in order to decide if they should receive financial assistance from the government. In other words, if a person has a higher income or more property than the threshold provided for in statutory law, she or he will not be eligible for certain social protection measures.

Unemployment measures can be divided into contributory and non-contributory benefits. The contributory benefit, the so-called unemployment allowance (*álláskeresési járadék*), is granted to those who have paid a labor market contribution (which is 1.5 per cent of the gross wage) for at least 360 days within a period of three years prior to losing a job. Further requirements are that a person is actively seeking employment and that the employment agency could not offer a suitable job. The duration of eligibility also depends on the contribution: ten days of contribution equals one day of eligibility to unemployment allowance, but the maximum duration is 90 days, which is the lowest in OECD countries (Table 1). Previously the duration of unemployment benefit was nine months, which was better fitted to a labor market where the average job seeking period is about 16 months.

After the expiry of the job seekers allowance, a person becomes eligible for job substitute allowance (*foglalkoztatást helyettesítő támogatás*, FHT) if her or his subsistence cannot otherwise be provided¹³ and the person has no other income, is registered as jobseeker and cooperates with the employment office. Also eligible are those whose unemployment allowance has expired and meet the above criteria. It is important to note that FHT is not a per capita benefit but is provided for the household as only one person is eligible for FHT in the household, unless the other person is receiving health-detriment allowance or childcare benefit.¹⁴ This is particularly disadvantageous for families with low income level or with small children. Those who are receiving any forms of maternity and child care benefits are not eligible,¹⁵ as well as those who are detained or sentenced to imprisonment. FHT is suspended

¹³ It is presumed that subsistence of a person is provided if 90 per cent of the minimum old age pension, which is equal to HUF 25 650 is provided for each unit of the family. A unit is a ratio of consumption within a family, calculated as follows: one adult counts as 1 unit, every other adult count as 0.9, the first two children count as 0.8 and every other child counts as 0.7. Calculation is somewhat different in case of children with disability. Section 33 para (2) of Act No III of 1993.

¹⁴ Section 33 para (6) of Act No III of 1993.

¹⁵ Mothers who were insured at least for 365 days in a period of two years prior to the birth of a child are entitled to pregnancy-maternity allowance (*csecsemőgondozási díj*; CSED) for the duration of maternity leave (24 weeks or 168 days) See: Section 40 of Act No LXXXII of 1997. Employees shall be entitled to unpaid leave from the time requested by an employee for the purpose of taking care of his/her child, until the child reaches the age of three. Child-care allowance (*gyermekgondozási díj*, GYED) shall be

during public work. Statutory law also provides for further sanctions. The payment of FHT is suspended for one month for those who are convicted for being engaged in informal work.¹⁶ The payment is suspended for 36 months for those who are not cooperating with the employment office or for those who violated the public work program as specified above.¹⁷

Jobseekers' eligibility for FHT is strictly linked to the participation in public work programs and statutory law has many disciplinary elements too. Those whose public work is suspended are not eligible for any benefits for that period. Eligibility for public work programs (and thus the associated benefit income) is suspended by law for three months when a) the mandatory school-age child of the public worker is not attending school; b) the public worker refuses to take up the job offered; c) three months before applying for public work, the former employment relationship of the jobseeker was terminated by the public worker or by the employer for disciplinary reasons; d) the public worker refuses to participate in training programs offered; e) a previous public work contract was terminated due to disciplinary reasons; f) the public worker's home is untidy, or a public authority declares a threat to public health or safety in connection with the public worker; or the notary convicts the public worker of a violation of a local government order.¹⁸

The element which requires the public worker to keep his/her home neat and tidy is the most controversial element of the public work rules. This requirement was first introduced in 2011, but the law on public work was amended due to the decision of the Hungarian Constitutional Court.¹⁹ The Constitutional Court found it unconstitutional that jobseekers could be suspended from public work if they failed to meet requirements set forth by a decree of a local government ordering them to keep their house/yard/garden neat and tidy. The Constitutional Court argued that such a requirement violates human dignity and the right to privacy, and amounts to discrimination based on property and social status. Keeping one's property clean can be ensured through other measures.²⁰ Thus, it was rather surprising when in June 2020 this eligibility condition was re-established with minor changes, stating that it is necessary for public health.

due and payable initially from the day of expiry of eligibility for CSED. The amount of child-care benefits shall cover 70 per cent of the calendar day average of the applicable income, not exceeding 140 per cent of the prevailing minimum wage (in 2018 HUF 138000 (EUR 445)) for a month. See: Section 42/E of Act No LXXXIII of 1997. Parents raising three or more children in their household are eligible for childraising support (*gyermeknevelési támogatás*, GYET) from the age of three to the age eight of the youngest child. The amount of GYET is equal to the minimum old age pension (HUF 28500 or EUR 92). See: Section 23 of Act No LXXXIV of 1998.

¹⁶ Section 34 para (4) of Act No III of 1993.

¹⁷ Section 34 para (3) of Act No III of 1993.

¹⁸ Act No CVI of 2011, Section 1 para (4a)-(4b).

¹⁹ 30/2017. (XI. 14.) ABH (decision of the Constitutional Court).

²⁰ The measures providing for the obligation of a house owner to meet health and safety requirements are Section 5:23 of Act No V of 2013, Government Decree No 17/2015. (II. 16.), and Section 17 of Act LXIII of 1999.

4. Public Work Program

The practice of tying the provision of benefits to “useful” work for the public, and enforcement via financial sanctions, the so-called *workfare* (*work* and *welfare*) *system*, originates from the United States. The use of these programmes only spread in the developed and developing world since the 1990s. “The introduction of this system spurred heated social debates, as did the phenomenon of welfare dependency, which is often mentioned to justify the system” (Kálmán 2015, 45). There are two types of *workfare* programmes: the first is aimed at reducing benefit dependency and assisting a return to the primary labour market; the second one intends to improve skills and promote employment (training, qualifications) for recipients of social services and benefits. In practice, the individual programmes usually incorporate both approaches: beyond changing income transfers, they also seek to create incentives for employment (wages instead of withdrawn or reduced benefits) (Kálmán 2015).

Linking welfare services to public works is based on the theoretical premise that unemployment benefit like allowances and other passive provisions decrease incentives to work. This must therefore be counter-balanced by tough eligibility conditions and sanctions, to produce a deterrent effect. Conditions for receiving benefits are such (frequent visits to the public employment agency, compulsory public works, training, etc) as to create serious inconvenience, thus compelling exiting the unemployment status as soon as possible, or the outright avoidance of claiming benefits and taking personal initiative to get out of poverty. In Hungary, surveys confirm that those in the periphery of the labour market work a lot in both registered and unregistered employment (Farkas, Molnár és Molnár 2014; Koltai 2013), and public works does not act as a deterrent, but is instead perceived in some regions, as an opportunity (Kálmán 2015). In the words of a Roma public worker, “we won’t be able to find employment anywhere. Neither part-time nor full-time. For me there’s only public work as an opportunity. Because I am Roma” (Koltai 2015).

In situations of economic crises, society reacts to growing unemployment and the worsening of life conditions in different ways: social movements or organised forms of interest representation (trade unions, NGOs) call for direct job-creation by the state. The state itself (mediating between economic processes and prevailing ideologies of the political elites) may also consider direct job-creation as an effective means of tackling the devastating effects of economic crises. “Following Polanyi’s idea of the ‘double movement’, in times when the self-regulating market fails (such as recently, during and after the 2008 crisis), social dislocations ‘naturally’ lead to social protectionism and different forms of political intervention” (Czifusz 2015, 129).

The linkage between welfare provisions and public works (workfare) can be understood in the context of activation interventions directed at the unemployed and the fight against poverty. Activation measures try to facilitate the return to the labour market of the long-term unemployed and other disadvantaged groups (Kálmán 2015).

4.1. Linking Public Work to the Workfare Model in Hungary

With the deepening of the economic crisis the unemployment rate shot up (Table 2.). Due to the lack of structural employment policy reform, the missing jobs were largely created through extensive public work schemes. The peak of the public work scheme was in 2014 when the estimated number of workers engaged in the public works program was around 300,000. In that year, the budget for this active labor market program was HUF 340 billion (EUR 1094 billion). Even though this radical workfare regime affected one-quarter of the total workforce in the public sphere, public works schemes were removed from the protection of labor law measures, and the newly adopted regulations intensified the obligation and local dependency criteria of participants, making people living in poverty more vulnerable.

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The first public work program in its contemporary meaning began in 1996, in order to tackle long-term unemployment.²¹ This program underwent major reforms in 2000, initiated by the first Fidesz government, when the regular social benefit first became conditional on participation in the public work scheme. In 2006 the program was renamed the 'Integration Program', the change in the name being triggered by the new conditions related to the more intensive cooperation desired from the participants. The scheme was much amended before a new program, 'Road to Work', was launched in 2009, targeting the less educated who were suffering from long-term unemployment. This scheme was subject to criticism because public workers receiving less than the minimum wage could not break out from their unemployed

²¹ The origins of the public work program in Hungary go back to the 1940s. The first government-initiated program, organized by the People and Family Protection Fund (ONCSA), aimed to help families engaged in agricultural activities in rural Hungary. However, it eventually became a tool in the government's hand used to carry out its policy of ethnic and racial discrimination. After WWII, during the communist period, work (possibly within the collective property) was a legal duty, sanctioned by criminal and administrative sanctions.

status (Szikra 2014; Szikra 2013). Without training and mentoring, the program did not increase their possibility to return to the labor market (Csoba 2010). The program had a substantially increased budget, managed by local municipalities.

From a social law point of view, public work in Hungary has a rather mixed nature: on the one hand, public workers are not counted in official unemployment statistics; thus from this perspective it is treated as an active labor market policy measure. On the other hand, public work wages and job seekers allowances are treated as social allowances, which links public work to passive labor market measures. Public work has, indeed, many attributes of employment: the work is performed under the supervision of the (public) employer, based on its instructions and for remuneration. A recent decision of the Constitutional Court to some extent supports the former argument.²² The Constitutional Court indeed reinforces the argument of the constitutional complaint submitted by the ombudsman stating that the fact that public work is a part of social benefit scheme and does not justify the severely detrimental working conditions attached to it. Public workers, many of whom are Roma, are discriminated against as compared to regular employees, without any constitutionally acceptable reasons. The Constitutional Court stated that public work has strong public law elements, such as the special regulations on employers, the tasks to be performed and the wages received thereupon, and the strict disciplinary elements of termination. Based on this argument, the Constitutional Court ruled that public work is a form of atypical work which lies at the intersection of social and employment policy and is a special form of social benefit.

The public works program became the central element of the ruling government's fight against unemployment. While other active labor market policy measures are underfinanced (European Commission 2020), the expensive yet inefficient public works schemes have been reduced, but are still maintained (direct job creation in Table 3).²³ It is also visible that job seekers' allowances and other direct cash transfers to the unemployed have been drastically cut. One of the public work trade union leaders says that he understands if the government introduces public employment – temporarily - for the low educated people in times of crisis, when these people do not have any possibility to enter the labour market. The problem, he says, is that “this public work scheme stayed here in a prosperous economy and it distorts the labour market.”

From labour law point of view, public work is an atypical form of work which is based on a fixed term contract concluded between the public worker and the public employer.²⁴

²² 30/2017. (XI. 14.) ABH (Constitutional Court Decision).

²³ While wages in the public sector have been growing, wages in the public works scheme have decreased relative to the minimum wage, from 77 per cent in 2013 to 55% in 2019.

²⁴ According to the Labour Code, typical employment contracts are concluded for an indefinite time. Section 45 para (2) of Act No I of 2012.

According to the provisions of Act no CVI of 2011 public work contract shall be governed by the Labour Code if the special law on public work does not provide otherwise.

The explicit aim of public works is to replace benefits. This approach removes public works from the circle of labour market measures and places public works among social provisions intensifying the obligation and local dependency criteria making people living in poverty more and more vulnerable (Koltai 2015). The public work scheme has been used as a quasi-punishment since its introduction, in 2008, when it was stated that there is no welfare without work, and that social transfers are provided in the form of public work. The organisers of public works themselves think that these types of works do not develop skills and competencies that might open the door to jobs in the open labour market. The mayor of a very small deprived village in North-Eastern Hungary where all the public workers are Roma said that “if the public work wage was not subsidized by the state, then it would not be anything at all, it would be a loss”.

5. Employment Situation of Roma

Roma constitute one of the largest and poorest ethnic minorities in Europe. Nearly 80 percent of Roma live in Central and Eastern Europe. The size of the Roma population is hard to assess because ethnic data are not collected in accurate and systematic ways.²⁵ The percentage of Roma in the total population in Hungary is close to 6-8 percent. Little representative evidence exists on the wellbeing of the Roma, but all available data indicate widespread poverty, low formal employment, low education, poor health and social exclusion in all countries (Kertesi and Kézdi 2011). The at-risk-of-poverty rate for Roma is almost five times higher than for non-Roma²⁶ and two thirds of Roma suffer from severe material deprivation.²⁷

The employment rate of Roma in Hungary is one of the highest in the EU (36%) (European Union Agency for Fundamental Rights 2016), but a significant proportion (41.6%) are employed in the public works scheme, a peculiar form of subsidized employment, described below. Their integration in the open labour market is thus very limited (Table 4). Public works

²⁵ Although Roma are the largest ethnic minority in Europe, there is no systematic data collection on Roma in the EU Member States. Therefore, the Europe 2020 statistical indicators for employment, poverty and education cannot be disaggregated for Roma. With very few exceptions, the EU-wide large-scale surveys – such as the EU Statistics on Income and Living Conditions (EU-SILC) and the Labour Force Survey (LFS) – currently do not collect information on ethnicity and do not sufficiently cover ethnic minorities, including Roma.

²⁶ According to the Hungarian Central Statistical Office the AROP (People who are "at-risk-of poverty") rate was 63.1 % for Roma and 13.7 % for non-Roma in 2015. Based on the 2016 survey of the Fundamental Rights Agency, 75 % of Roma are at risk of poverty. (European Union Agency for Fundamental Rights 2016).

²⁷ 67.8 % in 2015 (Hungarian Central Statistical Office). According to the Hungarian research institute TARKI it was 87 % in 2014.) (Country Report Hungary 2017)

play a significant role in social policy, particularly in disadvantaged areas of the country, but it also creates a risk of benefit dependency and an inactivity trap for social assistance beneficiaries in between living on benefits and participating in public works.

Grants were provided by the European Commission in 2010 to support specifically targeted programs to increase the labour market participation and social integration of Roma. One of the supported programs was '*Kiútprogram* Self-employment and Microcredit Programme'. The program helped to increase participants' inclusion in decision-making at a local level and presenting them as examples for their peer group. Participants were also assisted in liberating themselves from the debt trap, by gaining social respect through entering the legal labour market and becoming contributing members of society.

The labour market disadvantage is primarily a result of the dramatically low level of education of Roma in comparison to the rest of the population forming a majority in Hungary. As a Roma NGO leader stated: "20-year-old Roma young people do not know to read and write. The school is totally segregated in the village, only Roma children attend the school and it does not teach them anything. Even they finish the vocational schools - but in most cases, they drop out from school - they come back here to the village and they start working in the public work. The education of Roma children is screwed up."

Discrimination, combined with high costs of employment and the fact that the recession hit the classic employment sectors of Roma disproportionately hard (e.g. manufacturing industry), results in the extensive exclusion of Roma from official employment, pushing them towards informal segments of the labour market. Köllő and Scharle emphasised that employment of Roma deviates considerably from typical employment in that 1) it is usually irregular (casual); 2) it includes activities that are not considered as employment (collecting and trading with goods, waste recycling); 3) it is unstable; and 4) it is outside the scope of the formal and sometimes even the legal labour market (Köllő and Scharle 2012). There is significant informal, unreported and sometimes unpaid work hidden behind the recorded low employment rates (Messing 2015). A significant number of Roma work outside the official, declared labour market and perform temporary jobs in the grey and black job markets which are the lowest paid and the most vulnerable sectors. There is a wide range of unofficial work including collecting used, discarded goods and performing other undeclared commercial activities, such as selling products at local agricultural markets (Bodrogi and Kádár 2013) Employment programmes for Roma population entails considerable political risk in Hungary, where prejudice and negative attitudes towards Roma are widespread, not only within the population but also among politicians and employees of public institutions. Governments are therefore reluctant to explicitly target Roma (Messing 2015).

6. Ethnicisation of Public Work Programs

6.1. Mainstreaming Racial Discrimination

Since the EU's regulatory framework for social policy - outlined mostly in soft law measures - was costly (especially its active labor market policies) or undesirable (e.g. gender mainstreaming), it has been politically contested all over Central-East Europe (Lendvai-Bainton 2019). Another important factor is that even though Hungary used to have generous cash transfers, particular forms of social polarizations, especially ethnic and regional disparities have remained strong, making the whole welfare regime fragile (Bohle and Greskovits 2012). The Roma have been described as the undeserving poor and mainstreamed in everyday politics and practice (Škobla és Filčák 2019). The Hungarian Minister of Trade and Foreign Affairs once told the Italian press that Hungarian society “is burdened enough by the unemployment of the Roma community”. In 2012 when Orbán introduced major socio-political initiatives, he claimed that “one cannot live from crime, nor welfare” (Political Capital 2017). After the Curia (Hungarian Appeals Court) ruled that, altogether, 100 million Hungarian forints must be paid as compensation to those Roma students whose education had suffered due to racial segregation, the leader of Fidesz claimed that the decision was a selfish, self-centered “fundraising mission” of George Soros. Orbán in his radio speech on the State-owned nationwide channel stressed that the decision hurts society’s “sense of justice” since the people of Gyöngyöspata will see that the town’s Roma community receives a “significant sum without having to work for it in any way.” Orbán also claimed that “If I lived there (in Gyöngyöspata), I would wonder why the members of an ethnically dominant group living with me in one community, in one village, receive a large amount (of money) without working for it while I am struggling here all day”.

The ethnicization of social policy is visible through the allocation of resources, as well. Eligibility for social benefits is now at the discretion of district governmental offices.²⁸ These offices, per their own decrees, can set eligibility criteria for social benefits with a broad margin of appreciation, especially concerning merit-based allowances. This enhances local hierarchies and increases the powerlessness of participants, especially since public employment is tied to social allowances.

6.2. Roma on Public Work

Empirical evidence suggests that beneficiaries of direct job creation programs, such as public work programs, are most often unemployed Roma. The Ombudsman reported that the public

²⁸ Before the 2015 amendment, local authorities had the right to decide on individual eligibility.

work programs create "discriminatory settings" for Roma, who face discrimination in some municipalities when applying for and taking part in public work programs. Similarly, the Legal Defense Bureau for National and Ethnic Minorities (NEKI) expressed the opinion that the public work system makes it possible for local councils, the most common public employers, to abuse their powers and take discriminatory actions in connection with Roma public workers (Meneses, et al. 2018).

The number of participants in public work is around 200 000 to 300 000 every year since its introduction. The proportion of Roma among public workers cannot be defined exactly as official data disaggregated by ethnicity is not collected in this regard ("Hungary", Country Reports on Human Rights Practices for 2015). The employment of Roma population within the total employment is only 2% (while their rate of the total population is around 8%), while their share within the public employment is around 20% (Table 5).

Considering that large proportion of public workers are Roma, the Hungarian public work program may constitute an indirect discrimination based on ethnic origin prohibited by the EU Race Directive. Article 3 (1) of the Race Directive provides that indirect discrimination is prohibited in relation to employment and working conditions, including dismissals. Detrimental conditions of public work especially related to holidays, suspension and dismissal are arguably not justified objectively by a legitimate aim. Even if we consider the policy aims of public work as legitimate, e.g. to exclude the "idle poor from social rights", the means of achieving this aim are not appropriate and necessary. It might be argued that the Hungarian public work program undermines the achievement of the objectives of the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity by indirectly discriminating unemployed Roma people.

Another complaint of Roma public worker that they feel that non Roma public workers are placed in "invisible" places as in the schools, in kindergartens, in social institutions or in the office of the local government while Roma public workers are placed in the "visible places" of the village as in the streets to do cleaning and similar works what they feel very humiliating. As the Roma NGO leader says, "the non Roma public workers are hidden in the office of the local government, they do not go to the streets".

In the smaller settlements, e.g. in villages, the mayors organize the public work deciding about the participants and about the type of the work. The majority of public workers, especially Roma people, live in the most deprived regions in Hungary. These vulnerable people's lives strongly depend on the mayor's personality, as stressed by the Ombudsman refers in several reports. Humaneness, flexibility, racist or anti-racist attitudes strongly influence how Roma public workers can work and live in these villages. Almost all the interviewees assume political reasons behind the public work scheme. According to one of the Roma NGO leaders, "there

is no professionalism behind the public employment, only political calculation: the government strengthens the mayors giving them the power of organizing public work, so if the mayor wants to keep the power for the next cycle, threatens the public workers if they do not vote for the ruling party at the national election, or for the prevailing mayor at the local elections, they will lose their job". The trade union leader puts the same idea even harder: "feudalism is being strengthened in these villages, as these people are totally vulnerable to the local power". The Roma NGO leaders says: "these people are afraid of speaking up in their own interest because they are afraid they will not be allowed to work" (and thus receive benefits).

NEKI received more than a hundred complaints regarding the implementation of the public work system. The complaints are connected to the following fields: insufficient working conditions (employers are failing to comply with safety regulations, lack of proper tools, access to WC on site); the requirement of a 30-day employment is practically impossible to meet in many cases where there is simply not enough public work positions offered; public work related trainings are not organized; wages are not paid in time; public employers (mostly local councils) are often using their powers to intimidate or pressurize Roma by threatening them with excluding them from public work positions or dismissing them from public work. In both instances the effected persons are losing their right to public benefits for a given time. The experience of NEKI shows that institutions entitled to investigate complaints regarding the compliance with work safety regulations and the rules relating to working conditions rarely carry out thorough and proper investigations.

The Roma mayor of the city in Western Hungary says that „these people are low educated and vulnerable. It is hard to imagine that they come to the mayor’s office and turn the tables on the mayor saying we want our rights. They are afraid of the local power, they are afraid of being fired or they will not be offered by public work in the next time”.

As local governments are not obliged to organize public works for all the unemployed in their area, many people fail to meet the requirement of 30-days attendance in such programs, leading to their exclusion from social assistance. "This loophole is blatantly misused by some racist mayors who have mainly excluded the Roma from this program" (Scharle and Szikra 2015, 25). In many cases, Roma are not given enough information about public works program and are often put in extremely humiliating conditions if they are included. Unemployed households are increasingly isolated, especially in villages. No less than 90 per cent of Roma Hungarians live in severely deprived circumstances, including no possibility of eating meat every second day or affording proper heating during the winter (Szívós and Tóth 2013).

7. Conclusion

Roma employment deviates significantly from typical employment in a way that it is dominantly irregular, includes activities which are usually not considered as employment (like waste recycling, trading goods), is unstable, and is outside the scope of formal or even legal labour market. There are few employment policies in place, some of them are targeting specifically marginalised Roma communities, some of them targeting groups according to vulnerability traits, such as low education level. The most important element of active labour market policy in Hungary is public work. Empirical evidence proved that the beneficiaries of direct job creation programs, such as public work programs, are most often unemployed Roma.

The most important finding is that Roma beneficiaries are trapped in the circle of welfare subsidies and public work, where participants can recurrently become beneficiaries, and no additional support is provided for them to return to the primary labour market, partially because activities offered in the frame of public work (such as sweeping streets back and forth or collecting sand in buckets) do not develop new skills. These activities do not have any added value, therefore it enhances local hierarchies and increases the powerlessness of Roma participants, especially since public employment is tied to social allowances.

The social welfare system and the ratio of means-tested and merit-based measures was significantly modified in 2015. Under the current system both unemployment measures and family allowance are merit-based, with people being entitled to benefits if they cooperate with the employment office and participate in public work programs. Moreover, due to the low level of social welfare subsidies and public work wages, beneficiaries cannot maintain dignified living conditions for themselves and their families, which further increase marginalisation and social exclusion.

Arguably, the government has no other solution to tackle unemployment than public work, and once a large number of people hit the job market, the only labour market policy measure has to be reserved for the meritorious.²⁹ Thus, due to limited resources, the "idle poor" will more likely to be excluded disproportionately from these programs, which are anyway one of the most important sources of income for many families, and the re-introduced restriction will likely to further contribute to the ethnicisation of public employment.

²⁹ Unemployment has drastically increased since the outbreak of the COVID-19; in August 2020 368 500 jobseekers were registered, which is 118 thousand more people than a year before. The number of public workers has also gradually been growing; in June and July of 2020, 93 600 public workers were registered, and the government increased the budget by HUF 5 billion during the summer. <https://www.vg.hu/kozelet/kozeleti-hirek/nott-a-kozmunkasok-szama-2-3068798/>

Tables

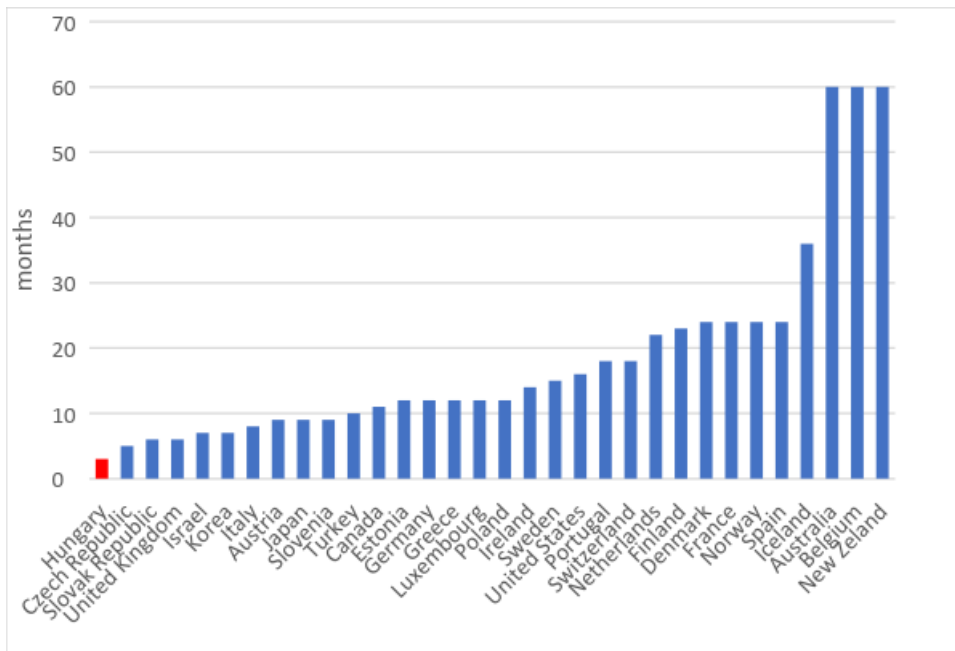


Table 1: Maximum duration of unemployment benefits in OECD countries. Source: OECD Tax-Benefit Models, www.oecd.org/els/social/workincentives

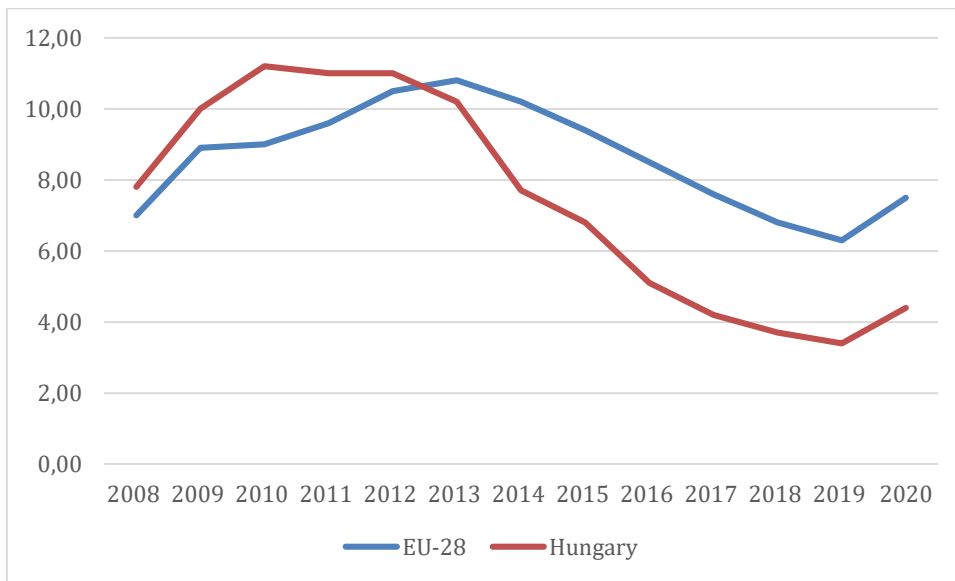


Table 2: Unemployment rates as a percentage of the labor force. Source: Eurostat.

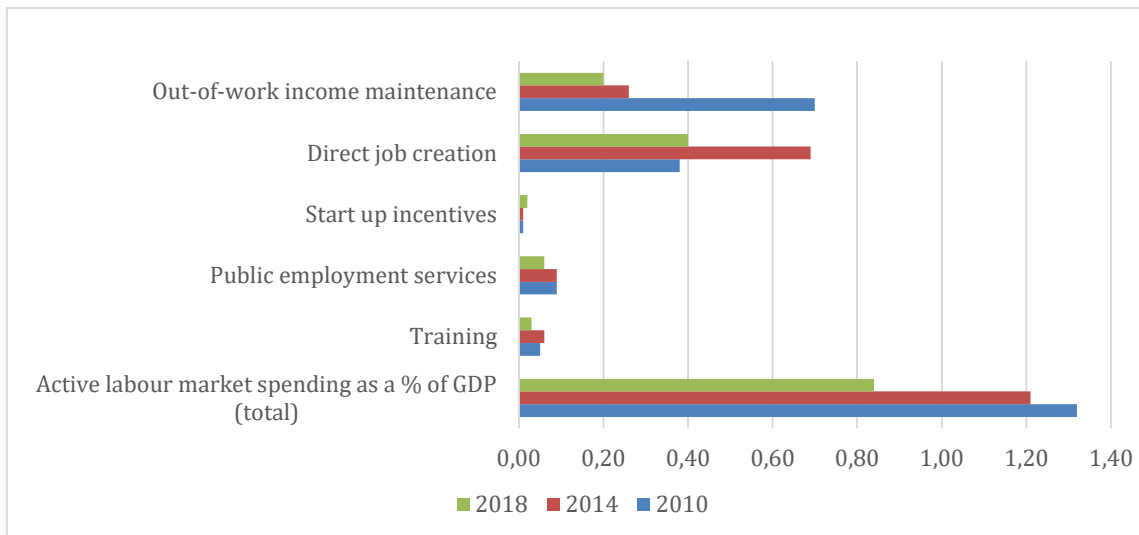


Table 3: Public spending on labor markets in Hungary, Out-of-work income maintenance and support, % of GDP, 2000 – 2018. Source: OECD database.

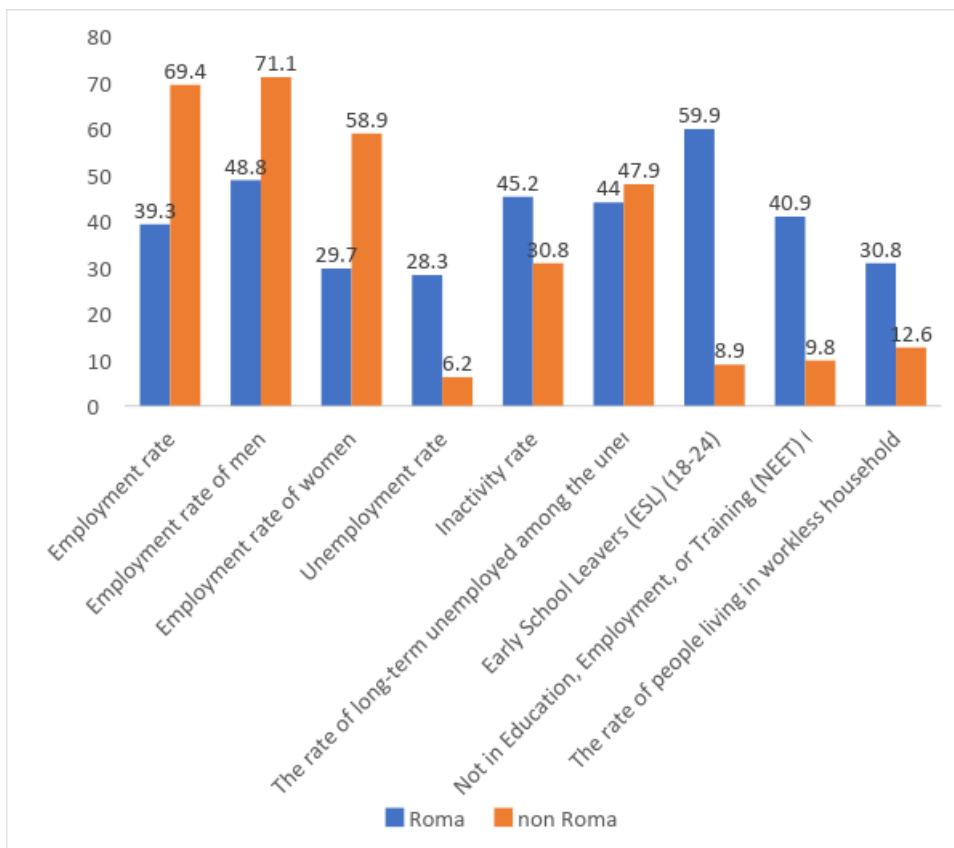


Table 4: Figure: Activity rate Roma and non Roma population (ages 15-64) in 2015. Source: Labour Force Survey 2015

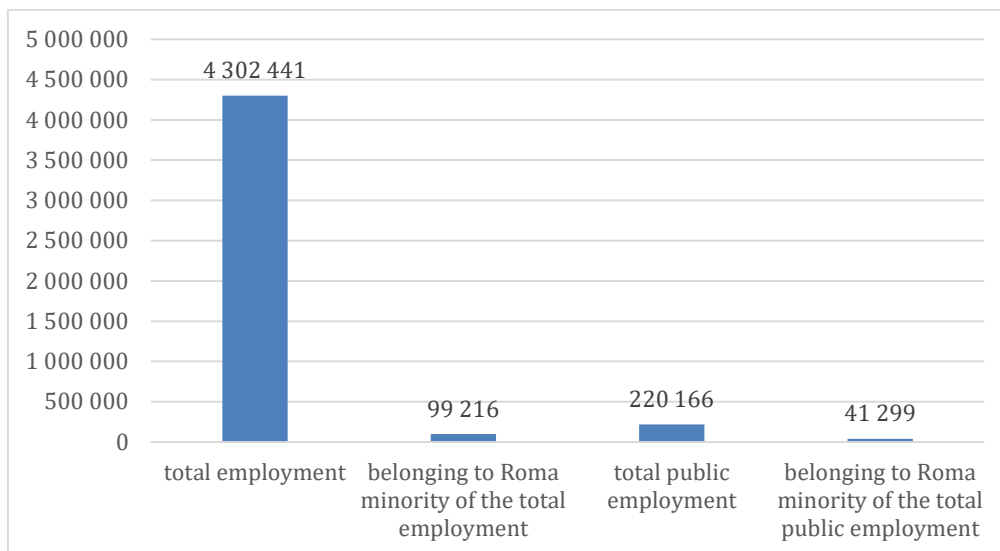


Table 5: Number of total and Roma population in employment and in public employment

Source: Hungarian Central Statistical Office, Labour Force Survey 2016

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