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FROM COLLECTIVE BARGAINING  
TO POLITICAL ACTION:  
TRADE UNION RESPONSES TO  
PRECARIOUS EMPLOYMENT IN  
THE SLOVAK REPUBLIC

MAY 2013

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# **From collective bargaining to political action: trade union responses to precarious employment in the Slovak Republic**

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## **Introduction**

This study explores precarious employment and strategic responses of trade unions to such employment in the Slovak Republic. In particular, the study addresses the incidence of precarious work through a selection of frequently used institutionalized forms of precarious employment; and presents the strategies and instruments that trade unions opted for at various levels to address precarious employment.

The study consists of two major parts. The first part summarizes the main characteristics of the Slovak labour market and discusses institutionalized forms of precarious employment and trends therein. The second part reviews trade union responses to precarious employment and offers an insight into the strategies that trade unions selected *vis-à-vis* precarious employment and precarious employees. Particular attention is devoted to the most effective instrument to reduce and regulate precarious employment in Slovakia, which is trade unions' political action through involvement in legislative processes related to Labour Code amendments. Besides the legislative process, litigation and collective bargaining are the most common instruments that unions have chosen to address precarious employment. The study is based on novel empirical evidence that the authors collected in 2011 in interviews with particular trade unions and their experiences with the above instruments. The list of respondents is available in the Annex.

Although the general trade union strategy *vis-à-vis* precarious employment is inclusive, we document variation in union strategies across our case studies. Adopted strategies range from closing the gap between precarious and regular employees to the exclusion of precarious employees from unions' membership and interests. The final section evaluates trade union responses presented in the case studies and argues that in general, trade unions struggle to reduce precarious employment, but lack organizational capacities and power resources for more effective action to fulfil this aim.

# 1. Precarious Employment in Slovakia

The Slovak labour market consists of 2,696,100 active individuals, reaching an employment rate of 58,8% in 2010<sup>2</sup>. The most significant economic sectors are industry with almost 400,000 employees, wholesale and retail services with 110,000 employees and construction with 50,000 employees (SOSR,2011).

In 2010, the average gross monthly wage in the Slovak economy reached 831 EUR, while the median wage stood at 651 EUR (SOSR, 2011). Compared to 2009, wages increased by 3.4 percent. There is a persistent pattern in gender wage gap and regional disparities in wages. Women earned 75% of men's average gross wage in 2009 and 2010. Highest average and median wages are documented in the capital district (Bratislava regional unit) with an average wage of 1116 EUR (median wage 828 EUR) in 2010. In contrast, lowest wages are reported in the Prešov regional unit with an average gross wage of 672 EUR (median wage 563 EUR) in 2010. From the perspective of low-wage work, 17% of full-time employees in Slovakia were low-wage earners in 2006.<sup>3</sup> A low-wage earner is an employee with annual gross earnings below two thirds of the annual full-time median gross earnings.

Slovakia's legislation recognizes a statutory minimum wage, anchored in the Act No.663/2007 on Minimum Wage and its later amendments. A statutory monthly minimum wage reached 317 EUR in 2011 for a full-time employee. However, the Labour Code Annex stipulates six occupational levels based on particular job content and specifies a minimum wage (calculated through appointed coefficients) for each of these levels. This means that in fact Slovakia has six minimum wage levels, starting at the statutory level of 317 EUR gross per month. Sector-level collective agreements may stipulate higher sector-wide minimum wages for particular occupations.

Structural unemployment, long-term unemployment, weak effectiveness of secondary and tertiary education, large regional disparities in employment and wages, and the rise of precarious employment especially among young people are considered the most significant pathologies in the Slovak labour market. To illustrate, in the past decade, unemployment rates varied from 18.8% in 2000 to 9.5% in 2008 and 14.4% in 2010, ranking Slovakia among countries with the highest unemployment rates in the EU. Long-term unemployed constituted 9.2 % of active population and more than 64% of all unemployed in 2010. Young people aged 15-24 are a particularly vulnerable group; about 50% of young unemployed are without work for more than one year (Páleník et al., 2009). High unemployment levels produced pressures of employers and the government on rising labour market flexibility. In result, Labour Code amendments from the period after 2001 created more space for alternative forms of employment, i.e., temporary employment, homework and telework; and the possibility of repeated fixed-term contracts. Together with part-time contracts, forced self-employment and work agreements outside of a formal employment relationship, these alternative – and to great extent precarious – forms of employment expanded rapidly.

For the purpose of this study, we understand precarious employment as employment with high uncertainty in job security, low level of wages and/or lack of sufficient social protection (i.e., dismissal protection,

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<sup>2</sup> Data from Eurostat if no other source explicitly mentioned.

<sup>3</sup> *Eurostat Statistics in focus*, 3/2010.

unemployment, pension, sickness and other social security entitlements). Precarious employment can also be defined as alternative, or non-standard employment, as opposed to a *standard open-ended, full-time employment contract*. The Slovak Labour Code defines the standard employment contract as full-time (40 hours/week), open-ended contract, with social security and healthcare contributions paid by employer and employee, and a remuneration reaching at least the statutory monthly minimum wage. The dismissal period is at least one month. Holiday entitlements are four or five weeks per year according to the employee's age and work experience. Employees with a standard employment contract are entitled to all relevant social security benefits, i.e., paid maternity leave and disability and sickness entitlements.

Several dimensions of precariousness help evaluating particular forms of employment as precarious. These include:

- **low wage** (2/3 of median in gross hourly wages)
- limited, marginal or no **social security entitlements**
- lower **job security**
- limited **access to training**<sup>4</sup>
- **other labour conditions** less favourable than in standard employment (e.g., paid maternity leave dependent on previous employment and salary, disability and sickness insurance, holiday entitlements, paid overtime)

These dimensions are not mutually exclusive; a particular form of precarious employment may demonstrate any combination of the above dimensions and a varying extent of precariousness in each particular dimension. In this study, we evaluate the precariousness of particular employment forms anchored in the Slovak Labour Code and widely used in Slovakia especially on the social security and job security dimensions of precariousness. We refrain from specific evaluation based on the low wage dimension and access to training dimension. First, the low wage dimension necessitates evidence on gross *hourly* wages; however, the widespread practice of unpaid overtime work in Slovakia complicates an analysis based on objective evidence on gross hourly wages. Second, access to training belongs to internal affairs of employers. This study focuses on broader, national regulation of precarious employment and regulation via sector-level collective agreements and therefore refrains from a company-level analysis of precarious employment based on access to internal services, including training, career growth, and similar.

For the purpose of comparison across several studied countries, this study considers two major clusters of precarious employment stipulated by the Labour Code and most commonly found in the Slovak labour market:

- **Precarious employment contracts:** fixed-term employment, part-time employment, flexikonto, temporary agency work;
- **Precarious work performed outside a formal employment contract:** dependent self-employment, work performance agreement, agreement on work activity.

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<sup>4</sup> Access to training as a dimension of precariousness belongs to internal affairs of particular employers and is not subject to legal regulation via the Labour Code. Therefore, it is difficult to evaluate precarious employment on the basis of access to training without in-depth company-level research. Although we do consider this dimension important for assessing precariousness, due to a lack of data and the fact that our analysis builds on the Labour Code stipulations this report refrains from providing systematic evidence on precarious employment on the basis of this dimension.



The next section provides and insight into the legislative framework regulating precarious employment.

## 1.1 Developments in the legislative framework

General developments and structural adjustments in institutionalizing the Slovak market economy also brought significant changes in the regulatory framework of the labour market. The Labour Code is the most important Act governing employment and its forms (including precarious employment) outside the public sector. Introducing a new Labour Code in 2001 has been one of the most important legislative changes in the new Slovak history. The Code established the requirement for concluding employment contracts only in writing; introduced definitions and a regulatory framework for remuneration conditions (e.g., wages; minimum wages; wages for overtime work; wage compensation for public holidays; premia for night work and for work in a demanding and harmful environment); and directly introduced several employment forms differing from standard full-time open-ended employment relationship (e.g., the *work performance agreement*) (c.f. Czírja, 2003 and Munková&Czírja, 2002). These alternative forms of work performed outside of a formal employment contract turned out to be highly precarious on all dimensions of precariousness, especially on job security and access to social security. Finally, the 2001 Labour Code abolished previous limits to the scope of collective bargaining and granted employers and trade union representatives in the business sector bargaining rights on any issues of common interest.

Soon after introducing the 2001 Labour Code, employers signaled their dissatisfaction with current regulation and called for more labour market flexibility. Employers argued that the Code '[...] creates obstacles to employers employing more people and to employees working more and thus improving their income' (Barosová, 2003). The provision strengthening the role of unions in determining employment conditions was also subject to critique by employers, which produced renewed consultations between the government and social partners in the tripartite council (EIRO, 2002). In sum, the call for greater labour market flexibility produced gradual shifts in the legislative framework. The consequence has been a step-by-step institutionalization of precarious work. At the same time, the past decade also brought legislative changes that attempted to limit or at least firmly regulate precarious forms of employment.

Eight Labour Code amendments followed between 2002 and 2011 (TASR, 2011a). The 2003 amendment opened the room for more overtime work through employees' simultaneous engagement in several employment contracts.<sup>5</sup> Working time under a *work performance agreement* has been limited to 300 hours per year; and the duration of a fixed-term contract was limited to three years with prolongation possibility applicable only to special cases (i.e., seasonal employment). Through the 2007 amendment, the maximum overtime work declined and working time under a *work performance agreement* was set at maximum 150 hours per year. A definition of dependent work was introduced in order to protect employees working involuntarily as self-employed. Finally, a two-year limit for a fixed-term contract was established without a further prolongation possibility.

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<sup>5</sup> The previous maximum working time of 58 weekly hours (including overtime) decreased to 48 hours. However, this new rule applied only to the employee's main employment contract if working in several jobs.



After a government change following parliamentary elections in 2010, further changes to the Labour Code were introduced in 2011.<sup>6</sup> These follow a single aim – further flexibilization of the Slovak labour market in order to combat high unemployment after the economic crisis. The aim of the government has been granting even more room to alternative employment forms and to liberalize hiring and firing regulation. The Labour Code amendment approved by the Parliament in July 2011, caused intensive discussion among the public and media and a harsh critique on the side of trade unions. The most important provisions in the latest amendment, related to precarious employment, include (SME, 2011):

- *Shared employment*, defined as a job position where concerned employees decide the distribution of working time and work content for the particular job without tertiary intervention, aims at improving employees' work-life balance. Critique raised on this provision maintains that shared employment decreases one's job security and certainty of working time and wage, thus increasing precariousness.
- *Length of notice upon employment contract termination vs. redundancy pay* – the employee is no longer entitled to both redundancy pay and length of notice upon employment termination, which used to be the common practice prior to the 2011 Amendment. Moreover, the period of length of notice is shortened (equals to one month) and the redundancy pay is decreased (equals to one-month wage). Employers welcome this regulation as it aims at labour market flexibility and easier hiring and firing. Trade unions argue that such a stipulation places even more employees in precarious employment due to insufficient dismissal protection.
- *Definition of dependent work* – a definition of dependent work has been introduced already in an earlier amendment in order to prevent forced self-employment. The government proposed to introduce changes in this definition or exclude it from the Labour Code. However, upon agreement with trade unions, the definition of dependent work in the revised Labour Code remains unchanged.
- *Variable length of probationary period*: employers welcome the diversified length of probationary period in different types of employment. This provision should increase the flexibility of employment.
- *Temporary employment* – the number of consecutive temporary contracts with the same employer has increased from two in two years to three in three years. This provision aims at harmonizing the Slovak regulation with other EU member states and EU-level regulation. Trade unions criticize temporary employment because of its precarious character on the job security dimension (and to some extent social security access dimension).
- *Labour relations*: the Amendment also aimed at granting more room to voluntary agreements and bargaining at the company level, thereby supporting bargaining decentralization. Within this aim, the trade unions' determination right on flexikonto – a crisis-induced stipulation enabling working time flexibility at the company level (see section 1.2.3) – has been terminated.

In sum, the Labour Code's scope has gradually broadened from setting formal employment conditions in standard open-ended full-time employment contracts to regulating 'alternative', often precarious, forms of employment and their specific conditions of dismissal, pay, and social security access. The goal of all Labour Code amendments remained unchanged since 2001 - to achieve higher flexibility in employment relations by reducing the number of regulations and improving the conditions for autonomous collective bargaining. The amended Labour Code stipulates only the basic framework, with actual working and employment conditions to be adjusted at enterprise level, taking into account regional and sectoral circumstances and the employer's

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<sup>6</sup> A minor amendment, effective from April 2011, aligns the Slovak regulation with European directives (e.g., on gender equality).

situation. The new amendments also eliminate the administrative intervention in labour relations of a number of institutions, thus simplifying Labour Code implementation (Munková, 2004). Trade unions played a key role in shaping Labour Code amendments and their involvement in the legislative changes is the most important form of trade union action related to precarious work in the Slovak Republic. The study's second part offers a deeper inquiry into trade union involvement in shaping precarious work through legislation.

## 1.2 Institutionalized Forms of Precarious Employment in Slovakia

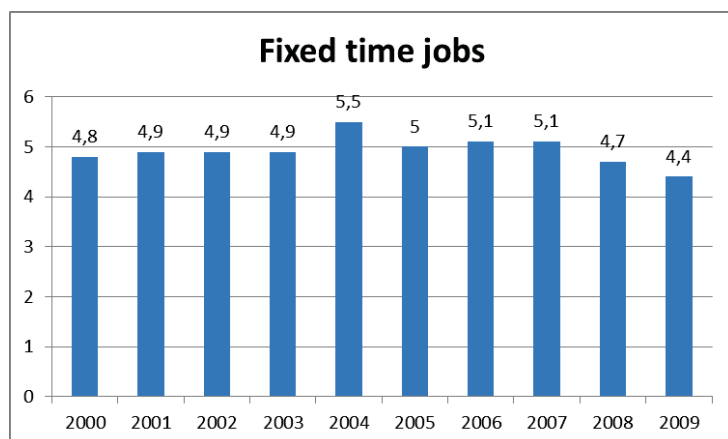
This section reviews the most important institutionalized forms of precarious employment and provides evidence on the incidence of particular forms. Table A1 in the Annex provides a summary of all presented forms of precarious employment and their main characteristics.

### 1.2.1 Temporary employment

Temporary, or fixed-term, employment and related contract renewal have been a part of several Labour Code amendments. Prior to 2007, the maximum length of a fixed-term contract was three years, with a possibility to renew such a contract an indefinite number of times. The Code allowed exceptions in particular jobs and for particular reasons (e.g., replacement in case of sickness leave); and the practical implication of such regulation has been the possibility to renew fixed-term contracts for particular employees an indefinite number of times. The 2007 amendment allowed only one extension of a fixed-term contract within the three-year period. This change was motivated by the government's intention to increase job security by protecting employees from indefinite prolongations of fixed-term contracts. The 2010 amendment changed the contract renewal to two in two years. The amendment of September 2011 stipulated that signing a fixed-term employment contract is again possible for a maximum period of three years; and the number of consecutive employment contracts between the same employer and employee may not exceed three in three years.

Despite receiving significant attention from the public, social partners and the government in the process of amending the Labour Code, evidence shows that fixed-term employees remain marginal in the Slovak labour force (see Figure 1).

Figure 1: Fixed-term employment share on total employment



Source: Eurostat

In 2004, when the temporary employment rate peaked, these employees comprised only 5.5% of the Slovak labour force. 2008 brought a drop in fixed-term employment from 5.1% to 4.7%. The 2007 Labour Code amendment (only a single renewal of a fixed-term contract within three years) translated into a decline of fixed-term employment to 4.4% of total employment.

The incidence of temporary employment among women is higher than among men, although the gender gap in temporary employment is not as significant as in part-time employment. According to Eurostat, 5.9% of active women and 5.6% of active men on the labour market were working in a temporary job in 2010. The reason of female engagement in temporary employment relates to the character of such employment in sales and elementary works without specific skill requirements. Besides women, another vulnerable group in the labour market is young people aged 15-24, whose share in temporary employment increased from 8.5% to 17.1% between 2000 and 2010.

The precarious character of fixed-term employment is limited to a single dimension of precariousness - job security. Low job security of fixed-term employees has further effects on their access to credits, mortgages, long-term planning of career, housing and work-life balance. On other dimensions, fixed-term employment provides equal rights and obligations to a standard open-ended employment contract. Social security contributions and access to benefits do not differ.

### **1.2.2 Part-time employment**

The Slovak legislature distinguishes two types of part-time employment. The first one is *regular part-time employment (half-time employment)* with 50% of the regular working time and 50% of a fulltimer's wage.<sup>7</sup> The second type of part-time employment is *employment with reduced working time* (§49 of the Labour Code), introduced in the 2008 amendment, in response to particular crisis-induced pressures to allow more flexibility in the labour market. The definition of reduced working time employment is work for less than 40 hours per week. The employee with reduced working time may work any number of agreed hours below 40 hours/week whereas his/her working time does not have to be equally distributed throughout the working week. The employer is obliged to inform employees with reduced working time, as well as their representatives, about the weekly working time plan and holiday entitlements.

Part-time work is not necessarily precarious when assessing job security (including dismissal regulation) and social security entitlements (including access to paid holidays, maternity, pension and unemployment benefits). The only exception is marginal part time work (below 15 hours/week) when lower job protection applies. However, part-time work can be seen as precarious in a number of indirect ways. First, given the fact that the ratio between wages and living expenses in Slovakia is tighter than in most Western European countries, part-timers are precarious on the low wage dimension because their earnings yield a lower purchasing power, smaller pension entitlements and social benefits calculated on the basis of wage. Second,

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<sup>7</sup> The maximum weekly working time is 40 hours. The Labour Code includes specific stipulations on overtime work: weekly working hours including overtime should not exceed 58 hours, and annual overtime should not exceed 150 hours. The 2011 Labour Code amendment however introduced exceptions from the maximum working time.

part-time work is increasingly used in sectors like retail, where employers benefit from overall workforce flexibility because of an available pool of part-time workers. If part-time work is unevenly distributed through the working week, employees (partly) lose control over determining their working conditions, are exposed to working time abuse (working longer hours than agreed) and uncertainty in planning their private lives, and lack the possibility to improve their wage through overtime payments. In fact, there is evidence on such practices in some large retail employers, with trade unions monitoring and reporting such cases to the National Labour Inspectorate (see Part 2 of this study).

Although part-time work is relatively marginal in Slovakia, between 2000 and 2009 the share of part-time employment in all employment contracts almost doubled from 2.07% to 3.97 % (see Table 1). Women are more frequently exposed to precarious work because working more often in part-time jobs. The share of women in part-time jobs has been constantly growing since 2000, reaching the double rate of males in part-time jobs in 2010.

The 2011 Labour Code Amendment introduced the institution of shared employment and allowed temporary exceptions from overtime regulation, which could produce a growth in part-time employment. However, trade unions argue that voluntary part-time work's popularity will not increase until wages for part-time work are considerably higher and effective sanction mechanisms are introduced to prevent employers abusing part-time work.

An interesting aspect of part-time work from the perspective of precariousness is involuntarily part-time work due to a lack of regular full-time job vacancies or because of employers' preferences (e.g., in retail, in order to better adjust shops' opening hours through a more flexible pool of part-time employees). Table 1 and Figure 2 document the growing trend in involuntary part-time work. While in 2000 involuntary part-time workers accounted to 33.58% of all part-time workers, in 2005 it was 43.44% and in 2009 it reached the level of 65.07%.

**Table 1: Rate of part-time work (part-time employees as % of all employees)**

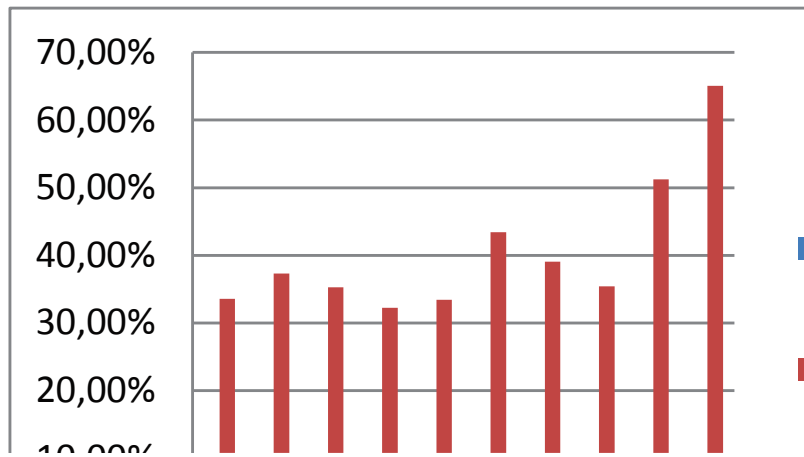
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Part-time workers	2,07%	2,36%	1,94%	2,50%	2,81%	2,69%	2,90%	2,72%	2,84%	3,97%
Share of involuntary part time	33,58%	37,34%	35,28%	32,24%	33,46%	43,44%	39,07%	35,43%	51,26%	65,07%

Source: Statistical Office of the Slovak Republic (ŠÚ SR)

The number of hours worked by part-timers in Slovakia declined from 24.1 in 2000 to 21.2 weekly hours in 2008. Compared to the EU average, Slovak part-time workers work slightly more hours, which derives from the high share of involuntary part-time employment. The majority of part-timers work in elementary occupations (ISCO9 occupational group); and their share in all part-time workers shows a modest seasonality pattern (Figure 3). Next, around one fifth of part-timers work in sales (ISCO5 group); and another significant group of part-time workers are technicians and related professionals (ISCO3). The share of women in all part-time employees is high and oscillated between 54% and 79% between 2008 and 2010 (see Figure 3). The incidence of part-time work among young people is higher than in other age groups (7.4%

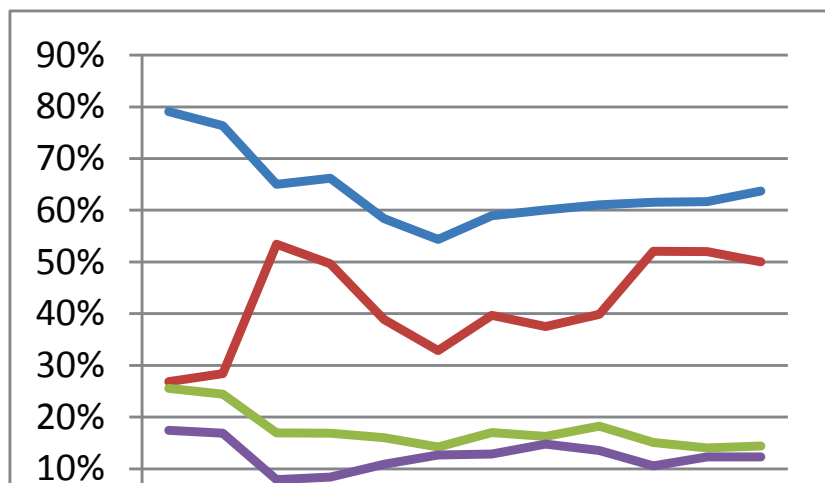
in 2010).

**Figure 2: Share of part-time employees on total employees and share of involuntary part-timers on total part-timers in Slovakia**



Source: Eurostat

**Figure 3: Share of part time employees (gender and occupation)**



Source: Eurostat

### 1.2.3 Flexikonto

*Flexikonto* (a flexible working account) has been introduced as a temporary measure to buffer the effects of economic crisis between 2009 and 2010. Originally invented at the company level by a key automobile producer and a major employer (Volkswagen), stipulations on flexikonto became part of the Labour Code (§ 252) and were also incorporated in selected sector-level collective agreements. This applies namely to the metal sector, which belongs to the most important sectors of the Slovak Economy. At the same time, the metal sector has been extraordinarily vulnerable to the crisis-induced changes in production and employment.

If for serious operation reasons the employee cannot perform his/her work, the employer is entitled to provide employees with time off from work while paying the basic wage. When the employers' economic

condition stabilizes, employees have to work off the provided leave. The work has to occur outside regular working hours and is not considered paid overtime work.

We include flexikonto in precarious employment because it resembles a trade off between job security, working time and a decent wage. Instead of crisis-induced dismissals, employees in the flexikonto scheme enjoy relative job stability; at the same time, their standard employment becomes more precarious due to working time unpredictability, unpaid overtime, wage decline while on leave, and work-life coordination difficulties when having to work off the granted leave afterwards. Flexikonto applies exclusively to the company level; therefore, no aggregate data is available on how many employees are exposed to temporary precariousness through the flexikonto scheme.

Prior to the Labour Code amendment of September 2011, company-level trade unions had a co-determination right on flexikonto implementation; and employers and unions could agree favourable conditions beyond the Labour Code for employees in the flexikonto scheme. With the amendment, unions lost their co-determination right and employers may introduce flexikonto through unilateral action. This is subject to serious critique by trade unions.

#### **1.2.4 Temporary assignation (temporary agency work)**

§58 of the Labour Code stipulates that temporary agency work (TAW) is limited to a fixed time period and agency workers must receive the same working conditions, wage, and social security entitlements as regular employees in the same position.<sup>8</sup> TAW is an exception from the regulation on fixed-term contracts; therefore, employment contracts for agency workers can be renewed an unlimited number of times, placing TAW among precarious employment. In particular, the precariousness of TAW relates to job security because of limited dismissal protection and redundancy pay. It is difficult to estimate the other dimensions of precariousness in TAW. Formally agency workers enjoy similar rights as regular employees, e.g. in pay, working time, social security entitlements, paid leave. But their access to careers, training, and paid overtime may be limited, thus preventing an upward mobility in the labour market to better paid and more stable jobs with the same employer.

Temporary labour agencies need to obtain a licence for offering their services and report the number of agency workers to the Central Office of Labour, Social Affairs and Family (*Ústredie práce, sociálnych vecí a rodiny, ÚPSVaR*). In 2011, ÚPSVaR reported 750 registered agencies and monitored their activities. Records show that TAW is most common in low skilled and unskilled types of jobs in the automotive industry, machinery production and electrotechnical industry, but also in catering, housekeeping and agriculture.

The overall number of temporary agency workers varied from 10,282 in 2004 to 55,377 in 2008. A straightforward growth of temporary agency work from 2004 has been reverted after 2008. This trend relates to the economic crisis, when employers' attempts to save on labour costs were translated into lower demand for TAW. In 2011, there are only around 14,000 TAWs in Slovakia (Toma, 2011); and local experts

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<sup>8</sup> A non-discrimination clause applies since the 2009 Labour Code amendment. Until 2007 there was a six months period, in which temporary agency workers could have been discriminated against in wages and working conditions. Later, this period has been shortened to three months until the non-discrimination clause has been introduced in 2009.

expect a growth of temporary work despite the new Labour Code amendment simplifying hiring and firing of regular workforce. In some sectors, e.g., agriculture, TAW is on decline because of stricter regulation through collective agreements on occupational health and safety, which makes this form of employment less attractive to employers (OZPP, 2011).

In terms of gender, men constitute a larger part of agency workers; however, the share of women is also high, reaching more than 39% in 2009 and 47% prior to 2009. The share of low-skilled employees remained very high between 2006 and 2009; and dropped below 90% only in 2009. Table 4 provides an insight into the ÚPSVaR records on TAW<sup>9</sup>.

**Table 2: Temporary agency work in Slovakia**

	Temporary employed through agencies	Women	Low skilled
2004	10 282	n.a.	n.a.
2005	15 078	n.a.	n.a.
2006	30 818	n.a.	99%
2007	33127	47%	96%
2008	55377	47%	92%
2009	37074	39%	87%

Source: Central Office of Labour, Social Affairs and Family (ÚPSVaR)

Although TAW enjoys a specific legal regulation in Slovakia (through the Labour Code and the Act on Employment Services), the National Labour Inspectorate (*Národný inšpektorát práce, NIP*) reports that cases of agencies breaching this regulation are not uncommon. NIP engaged in a countrywide monitoring of temporary labour agencies in 2010 and 2011, which uncovered serious law breaching actions of temporary labour agencies, such as a lacking written contract between the employer and the agency, which has further negative consequences on agency workers' rights. Other commonly found cases were cases when agencies did not sign a standard employment contract with an agency workers, but only a *work performance agreement*<sup>10</sup> in order to avoid social security contributions, paid leave and paid overtime work.

### 1.2.5 Dependent self-employment

If hiring a self-employed person, social security contributions are the employee's obligation, thus significantly reducing the labour costs for the employer. This fact gives employers great incentives to substitute regular employment with bogus self-employment. The government, with support of trade unions, aimed at discouraging bogus self-employment by legal instruments and eliminate precariousness stemming from the growth of dependent self-employment. In result, the 2007 Labour Code amendment introduced a more precise definition of dependent work, in order to separate bogus self-employment from real self-

<sup>9</sup> Table 2 shows the number of workers employed by temporary labour agencies in the given year.

<sup>10</sup> See section 1.2.6 for more details on the Work Performance Agreement as a form of precarious type of employment.



employment. Dependent work is defined solely as work carried out personally by employee for an employer, according to employer's instructions, in the employer's name, for a wage, during assigned working time, at employer expenses, using the employer's production premises and with the employer's liability, and also consisting mainly of certain repetitive activities.

Forced self-employment belongs to key forms of precarious work for the following reasons. First, the social security contributions and entitlements are fully at the employee's discretion. The employee may decide his/her own level of social protection. In fact, many employees follow their short-term interests of a higher net wage and thus opt for minimum social security. Although a voluntary decision, social security and sickness entitlements of many bogus self-employed are marginal. Second, a dismissal period or redundancy pay do not apply for bogus self-employed. Finally, at first glance, dependent self-employed often receive a higher wage than regular employees; however, this is the gross wage without subtracted payroll taxes that the employer and the employee are obliged to contribute on taxes, health insurance and social security contributions.

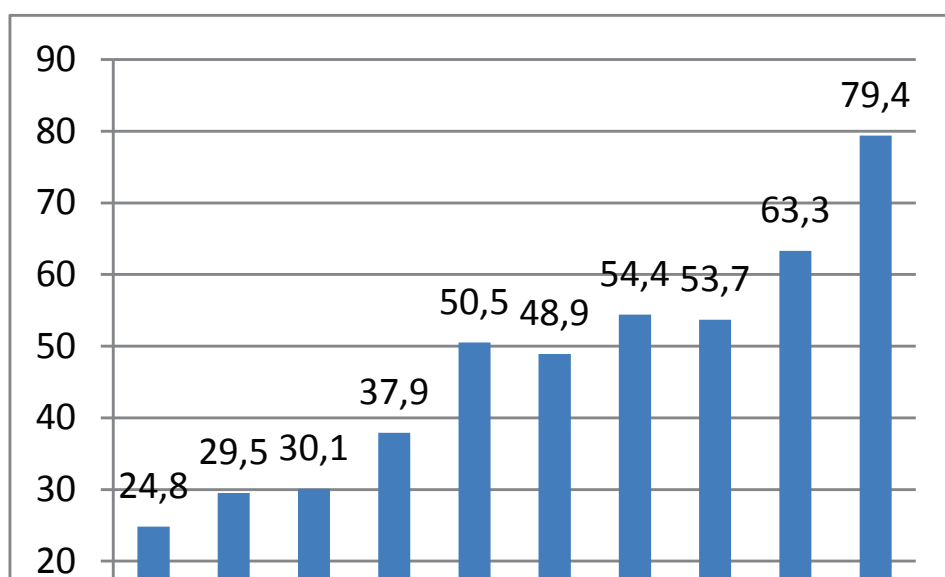
The detailed definition of dependent work in the legislation allows uncovering and penalizing forced self-employment. However, such action faces major obstacles in revealing forced self-employment in practice. Statistical evidence shows that the number of self-employed persons has been steadily growing between 2000 and 2009 (see Table 3 and Figure 4). Figure 4 shows that self-employment has been rising significantly among women.

**Table 3: Number of self-employed people (in thousands)**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Self-employed	108,5	119,8	125,8	144,2	181,9	205,3	216,4	227,1	252,6	284,6

Source: Eurostat

**Figure 4: Number of self-employed women (in thousands)**



Source: Eurostat

The Statistical Office of Slovak Republic (Štatistický úrad Slovenskej Republiky, ŠÚ SR) reported 100,000 involuntarily self-employed in 2010 and around 78,000 in 2009. This evidence built on a survey aiming at identifying bogus self-employment according to its key features, such as an employee's discretion over planning his/her working time and use of an employer-provided cellular phone.

### **1.2.6 Work performance agreement**

Instead of regular employment contract with all applicable social security contributions and entitlements, an employer may conclude a work performance agreement with an individual if the anticipated amount of work, for which the agreement is concluded, does not exceed 350 hours in a calendar year.

This type of a temporary assignment contract belongs to most precarious for the following reasons. First, a work performance agreement can be signed with a person working full-time for the purpose of *unpaid overtime* work. Second, social security contributions in this type of employment are marginal: the employer is obliged to contribute only 0.8 percent of wage on insurance in case of injury and another 0.25 percent on guaranty insurance (obligatory payment for the case of employer bankruptcy to guarantee the payment of employees' salaries). The employee is not obliged to compulsory social security contributions. In consequence, there are no illness, disability, pension or unemployment entitlements. Third, the employee is not entitled to any paid leave and meals contribution from the employer. Fourth, the period of notice in case of planned dismissal is shorter than in a regular employment contract and a redundancy pay does not apply. In sum, employees working on the basis of a work performance agreement lack all major social rights; their work can be abused in terms of unpaid overtime, low pay; their job security is limited and they lack all forms of social protection upon illness, dismissal or pension.

### **1.2.7 Agreement on work activity**

Sharing most features with the work performance agreement, agreement on work activity is a temporary assignment contract to deliver a specific task. The original purpose of agreement on work activity was to allow integration of marginalized groups and new entrants on the labour market, and to allow low wage earners to exercise two jobs in order to make a decent living. However, this original aim has been gradually reconstructed and this type of employment has been increasingly abused in workplaces that should be filled with regular employees.

The main difference between the work performance agreement and the agreement on work activity is the following: *work performance agreement* concerns a particular task to be delivered in a specified fixed-term period of time (e.g., project work of temporary duration, one-time cleaning after renovation, and similar). The work for this type of agreement has the specifically defined final product (e.g., cleaned premises, finished project). In contrast, *agreement on work activity* assumes a longer period, in which work is regularly delivered (e.g., cleaning once a week, working in a library for 2 hours/week, etc.). The only limitation is that the maximum working time per week cannot exceed 10 hours.

In terms of precariousness, the agreement on work activity shares the characteristics of the above-described work performance agreement: no social security contributions/entitlements for the employee, no paid leave entitlement, shorter notice period prior to dismissal, no right to redundancy pay, and no unemployment benefit from this type of employment.

Despite its highly precarious character, agreement on work activity as a form of employment is popular. For employers, including temporary labour agencies, hiring workers through the agreement grants more flexibility in hiring and firing and lower labour costs without commitment to such workforce. Prior to recent Labour Code amendments, there has been an ongoing discussion whether to erase such highly precarious employment forms from the Labour Code. In fact, for a short time, the work performance agreement together with the agreement on work activity disappeared from the Labour Code, but has been re-introduced in the following amendment.

No statistical evidence is available on trends and numbers of precarious employees working under the work performance agreement and the agreement on work activity.

### **1.3 Evaluating precarious employment in Slovakia**

Responding to labour market turbulences, unemployment, and the economic crisis, Slovakia underwent a number of legislative changes that fuelled the growth of precarious employment. Although some forms of precarious employment remain relatively marginal when compared to many (Western) European economies, constant pressures on labour market flexibilization continue to produce growth in precarious employment. This general trend of expanding precarious work is expected to continue in the coming years, too. Some forms of precarious work inflated in direct response to legislative changes (e.g., temporary agency work, fixed-term employment), whereas others developed as externalities of legislative changes (e.g., use of dependent self-employment and Agreement on Work Activity for jobs with preconditions for regular non-precarious employment).

Some association between the character of governance in precarious employment and political cycles can be documented. In the period of 2001-2006, the right-wing coalition government introduced changes to labour market regulation that aimed at greater labour market flexibility. Directly and indirectly, these changes aimed at labour market mobility, easy access to employment, and easy hiring and firing for employers. In fact, they produced growth in precarious employment. Between 2006 and 2010, the social democratic government, with an openly declared cooperation with trade unions, attempted to revert the trend of growing precarious employment through several legislative changes. First, with an elaborated definition of dependent employment, which became part of a Labour Code Amendment, the government sought to decrease the level of bogus self-employment. Second, stricter regulation of contract renewal in case of temporary employment aimed at better access of temporary employees to permanent, non-precarious employment. Since 2010, a right-wing coalition government introduced further changes to the regulation, mainly aiming at labour market flexibility in a post-crisis period. Recent changes from the 2010-2011 period, relevant from the precarious employment perspective, include the increase of consecutive contracts in case of temporary employment, introduction of flexikonto without trade union co-determination, introduction of temporary

exceptions to the maximum working time (including overtime work), and the legal stipulation of shared employment.

From the presented, widely used, forms of precarious employment, the most precarious forms are the so-called assignment contracts outside of the regular employment relationship: *agreement on work activity* and *work performance agreement*. These employment forms do not guarantee any access to social security and pension entitlements, and are highly precarious also in terms of job security. Next, temporary agency work is highly precarious, especially if the employee's work for the agency is based on an assignment contract instead of a standard employment contract granting access to social security entitlements (illness, disability, maternity, unemployment and pension entitlements).

Besides the presented, most commonly practiced forms of precarious employment, additional but relatively marginal forms of such employment include temporary work of students, graduate internships, and activation works for long-term unemployed. The latter two are part of active labour market policies, but their real effectiveness in integrating the unemployed and school leavers in the labour market is limited.

## 2. Trade union responses to precarious employment in Slovakia

Similar to other postsocialist countries, trade unions underwent important changes in the past decade and face a growing diversity of challenges. In an environment with growing foreign investments and governments aiming at deregulating the labour market in order to support growth of employment and investments, trade unions face the challenge of maintaining their societal legitimacy. The key resource for trade unions is the legal regulation, stipulating union rights in codetermination, information and collective bargaining. The 2011 Labour Code amendment brought changes to stipulations concerning union legitimacy, which pushes trade unions to a challenging position, in which they constantly have to re-establish themselves as legitimate organizations capable of engaging in social dialogue and delivering feasible outcomes of collective bargaining. Unions operating in such an environment, hostile to collective interest representation, therefore concentrate most of their capacities for action in two domains. First, at the national level, it is their engagement in the tripartite council, which serves as an advisory body to the government. Second, at the sectoral and company level, unions consider collective bargaining and the conclusion of collective agreements as their main function in regulating employment issues. Despite variation in bargaining procedures and outcomes, coverage rates, and trade union structure across sectors of the Slovak economy, Slovakia is a country where the sectoral principle plays a crucial role in the organization of trade unions and employers and in bargaining patterns. A growing trend of bargaining decentralization across a number of sectors intensified the challenge of trade unions seeking to re-establish and redefine the role of sectoral collective bargaining, in particular, its complementarity to company-level bargaining. Finally, similar to other countries in Europe, trade unions face a membership decline. In particular, trade unions face difficulties in recruiting young members and members from among the growing pool of precarious employees. The peak union confederation KOZ SR (*Konfederácia odborových zväzov SR*) estimates that precarious workers comprise 15% of all union members.<sup>11</sup> Such membership trends have negative consequences on union capacities and legitimacy. At the same time, capable leadership in some sectoral unions proved to yield improvements in working conditions through sector-level collective bargaining (c.f. Kaminska and Kahancová 2011). Besides membership decline, trade unions are concerned with a declining coverage of collective agreements. KOZ SR estimates that on average only 20% of employees in Slovakia are covered by a collective agreement.<sup>12</sup>

Acknowledging these conditions in which unions operate in Slovakia, the aim of this section is to present and evaluate evidence on trade unions responses to precarious employment. Inspired by Heery and Abbott's (2000) approaches of trade unions to precarious employment and following a coordinated framework on union strategies and instruments across six countries, we consider several trade unions strategies vis-à-vis precarious work:

- *inclusion*: union strategy to include/integrate precarious employees into their constituency and serve as broad interest representation organizations without making specific differences between precarious and regular workers
- *exclusion*: union strategy to serve as interest representation organizations for insiders (regular employees) only and exclude precarious workers from their constituency and from union interests

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<sup>11</sup> Source: Questionnaire response from the KOZ SR vice-president, July 2011.

<sup>12</sup> Source: *ibid.*

- *separation*: union strategy to separate precarious workers from the rest of their constituency and treating precarious workers as a particular group that requires special attention, aims and instruments in interest representation
- *reduction*: union strategy that aims to bridge the divide between precarious and regular employees by reducing precariousness (e.g., through legal regulation giving less incentives to precarious work). Unions strive to influence/implement changes in employment conditions of precarious employees in order to bring these closer and comparable to employment conditions of regular employees.
- *elimination*: trade union strategy aiming at eliminating all forms of precarious work in the economy. Treating precarious employees may encompass inclusion as well as separation, but these are perceived as temporary strategies on the way towards a full elimination of precarious employment.

The above strategies are not exclusive and unions may engage in several of them simultaneously. At the same time, the above strategies may be perceived in a temporal perspective. For example, when the unions' long-term goal is eliminating precarious employment as such, in medium-term they may opt for reducing precariousness through improved regulation (via legislation or collective bargaining). Next, an important consideration is the fact to what extent unions explicitly opt for a particular strategy. Exclusion or inclusion of precarious work may be a purposeful action of unions; but at the same time it may come as a side effect of another strategy. A detailed empirical separation of intended and unintended consequences of union strategies for precarious employees is beyond the scope of this study. Therefore, we empirically focus on *intended* union strategies, and consider *unintended* consequences only in cases where they are obvious and broadly relevant for evaluating trade union strategies on precarious employment.

Several instruments to accomplish the above strategies can be identified. These instruments derive from a coordinated framework for comparative research on union responses to precarious work across six countries in the EU:

- *collective bargaining and the conclusion of collective agreements* – unions aim at achieving their strategy through engaging in collective bargaining concerning particular rights of precarious employees. This instrument is applicable to strategies of inclusion, separation, reduction and elimination.
- *organizing precarious workers in trade unions* – trade unions opting for this instrument are expected to develop particular action to increase the number of precarious employees among union members, and consequently improve their rights, e.g., through collective bargaining and coverage by collective agreements. Organizing as an instrument is compatible with strategies of inclusion, separation, reduction and elimination.
- *service-oriented instruments* – empowering precarious workers and equipping them with information on their statutory rights and employment situation
- *political instruments* – union involvement in the legislative process (law making) to improve the rights of precarious workers and employment standards, political lobbying, trade offs, open/formal and informal alliances with political parties
- *litigation* to enforce established employment regulation – unions striving to protect and/or improve the rights of precarious employees through monitoring, reporting and formal litigation. This instrument is compatible with the strategy of inclusion, separation, reduction and elimination of precarious employment.

- *mobilization* – unions organize mobilization campaigns (e.g., protests and manifestations) and industrial action (e.g., strikes) in order to point attention to the rights of precarious workers regardless of whether they are organized in trade unions. Unions are expected to engage in mobilization especially when pursuing a strategy of separation, reduction and elimination of precarious employment.
- *media-oriented instruments*: in order to influence employment rights of precarious workers and precarious employment in general, unions use the media as an instrument to channel their claims, concerns, opinions and attempts to shape public opinion.
- *identity politics* to shape the character of precarious workers – unions use a variety of proactive instruments (e.g., information campaigns, media appearance, involvement in discussions and other similar actions) with the aim of influencing the self-recognition of precarious employees and supporting their empowerment. This instrument is compatible with all union strategies presented above.
- building and disseminating *benchmarks on employment standards* in the society – similarly to identity politics, unions engage in information campaigns in decent work, media appearance, involvement in discussions and related actions in order to influence the general perception of standard employment in the society and thus setting benchmarks for what is standard and what is precarious. This instrument is compatible with all union strategies presented above.

Similar to the presented union strategies, instruments serve as a toolbox to accomplish the chosen union strategy. In other words, instruments are not mutually exclusive and particular strategies may be translated to purposeful action using several instruments simultaneously. The outlined strategies and instruments serve an analytical purpose and are the basis for comparative framework, which will be used to evaluate empirical evidence on union responses to precarious work across several countries.

From the methods perspective, this study is a qualitative reconstruction of novel empirical evidence collected by the authors between April and September 2011. Secondary evidence on trade union activities with regard to precarious employment in Slovakia is marginal; therefore, we opted for primary data collection using two methods. First, we directly approached 28 sector-level trade unions, organized in the peak union confederation *Konfederácia odborových zväzov SR* (KOZ SR), with a written semi-structured questionnaire. The response rate was 28.6%. Second, with the aim of elaborating particular case studies, we organized three face-to-face interviews with sector-level trade union representatives. Unions were selected for an interview based on their engagement in action on precarious employment according to their response to our questionnaire (i.e., the agriculture trade union); their size and relevance (i.e., the metal sector trade union); or the fact that the union operates in a sector with substantial precarious work (i.e. the trade union in retail and tourism). All interviews were conducted by the lead author and recorded.

Besides collecting evidence from sector-level trade unions, we directly contacted KOZ SR and obtained a response to our questionnaire on KOZ SR's approach to precarious work and instruments to combat precarious work at the national-level. In order to evaluate union responses to precarious work objectively, we also sent out questionnaires to 22 sector-level employers' associations in those sectors where trade unions were approached. With these questionnaires, we aimed at employers' perception of what trade union do against precarious work and an evaluation of strengths and weakness in such trade union action. Selection of contacted employers' associations has been based on their membership in one of the peak-level employer



federations (*Asociácia zamestnávateľských zväzov a združení, AZZZ, and Republiková únia zamestnávateľov SR, RUZ SR*). The response rate was 13.6%. The list of all respondents, including trade unions and employers' associations, is presented in the Annex.

Next to data collection through questionnaires and interviews, we collected secondary evidence on trade union engagement in the legislative process, namely, in the formulation of Labour Code amendments concerning precarious employment in the past decade. This evidence is based on media articles and press releases reporting union action and evaluating its effectiveness. Such evidence has been made available through media monitoring regarding the recent Labour Code amendment. The Library of the Slovak Parliament has published the collection of respective media articles online.<sup>13</sup>

Building on the presented analytical framework, the next section presents empirical evidence on trade union strategies on precarious employment. Section 2.1 offers insights into two case studies on trade union activities aiming at the elimination/reduction of precarious work, but deploying different instruments to pursue this strategy. Section 2.2. is devoted to case studies of collective bargaining as an instrument aiming at regulating working conditions of precarious employees in the metal sector and in agriculture. Section 2.3 discusses other kinds of activities that Slovak trade unions developed in order to address the challenges of precarious employment. The concluding section 2.4 evaluates trade union responses.

## **2.1 Trade union strategies on precarious employment**

This section presents two case studies on trade union responses to precarious work. In each case study, we aim at addressing the following questions:

- Do unions recognize the challenge of precarious employment?
- What kind of strategy do they adopt in responding to particular forms of precarious employment?
- What instruments do unions select in fulfilling their aims?
- How effective has been union action to reduce/eliminate precarious work?

The first case study explores trade union involvement in the legislative process shaping relevant Labour Code provisions on precarious work. Shaping labour legislation through engagement in the national-level social dialogue is by far the most important trade union response to precarious work in Slovakia; and trade unions ascribe a central role to political instruments in this process. The effectiveness of union action varies with political support and the issues addressed in particular legislative processes. Moving away from the national level and presenting trade union responses to precarious work at the sector-level, the second case study documents action of the trade union in retail and tourism in addressing precarious employment in large retail chains.

### **2.1.1 Union engagement in the legislative process – national level**

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<sup>13</sup> Source: [http://www.nrsr.sk/Static/sk-SK/Parlamentna\\_kniznica\\_oldweb/](http://www.nrsr.sk/Static/sk-SK/Parlamentna_kniznica_oldweb/) [accessed July 20, 2011].

The most important action of Slovak trade unions to address precarious work is their direct and indirect involvement into the legislative process. The Labour Code together with related legislative acts is the most important tool in governing the labour market in general and precarious employment in particular. Changing the regulation of precarious employment has been subject to almost all major Labour Code amendments since 2001. Trade unions were playing an active role in the amendment processes, predominantly through (but not limited to) their participation in the national-level tripartite council, which serves as an advisory body to the government. In Slovakia, the tripartite council, together with the national-level social dialogue practice, enjoys a solid structural position in the country's industrial relations system. However, the council lacks enforcement power on strategic issues (e.g., law making and adopting strategic plans on economic and labour market developments) to endorse its standpoint vis-à-vis the parliament and the government. This gap in the council's formal and real position yields that unions do not concentrate all their resources and activities in national-level tripartism, but engage in other kinds of political action at the national level. The most important is the unions' direct interaction with parliamentary fractions, particular ministries (e.g., in sectoral tripartism) and the government as a whole.

From the perspective of precarious work, the 2007 and 2011 Labour Code amendments are particularly relevant. The aim of the 2007 amendment was to increase job security, while the 2011 amendment reflected the post-crisis development on the labour market and aimed predominantly at increasing employment flexibility through more consecutive fixed-term contracts. Trade unions, represented by KOZ SR at the national level, were actively engaged in both amendment processes. As the following paragraphs show, union success in the legislative process was strongly determined by the relationship between the government and unions.

In 2006, KOZ SR signed a declaration on mutual support of cooperation with the ruling social-democratic party SMER-SD. In the same time period, the government announced its intention to amend the Labour Code in order to ensure greater employment protection. All in all, three issues concerning precarious work played an important role in the 2007 legislative process. First of all, the amendment brought a clearer definition of dependent work in order to hinder forced self-employment, which was on the rise since several years. The discussion among unions and employers' representatives evolved around conceptualizing the attributes of dependent work, and the number of attributes to be simultaneously present for declaring particular type of employment as dependent employment. Social partners defined eight attributes deriving mainly from the characteristics of the relationship between the employer and the employee in dependent employment.<sup>14</sup> At tripartite negotiations, unions insisted that dependent employment is characterized by at least one of the listed attributes. In this case, the employer should be obliged to recognize the work performed by the employee as dependent employment; and the bogus self-employment relationship should be changed into a regular employment contract. Employers strongly opposed this proposal, arguing that such a strict definition of dependent employment would be problematic for many small entrepreneurs with close ties to one particular business partner (SITA, 2011). In strong contrast to the union proposal, employers requested that dependent employment shall be recognized only if all eight features are simultaneously present in a particular employment relationship. The discussion among social partners has been, upon an intervention of the Ministry of Labour, Social Affairs and Family, concluded after the engaged partners adopted a compromise that satisfying three features of dependent employment is sufficient to recognize

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<sup>14</sup> See Section 1.2.5, or Labour Code §1, ods. 2 for a definition of dependent work.

particular employment as dependent. Trade unions considered this a satisfactory result and maintain that the elaborated definition of dependent employment is a union achievement.

The second issue related to precarious work in the 2007 legislative process concerned TAW. Before the amendment, agency workers enjoyed non-discrimination in working conditions vis-à-vis regular employees only after six months of work for the same employer. Unions proposed to shorten this period to six weeks, while employers pushed for maintaining the status quo regulation. Finally, social partners, again after government intervention, adopted a period of three months of allowed discrimination against agency workers. Being a union success at the time of adoption, this stipulation no longer exists after the adoption of anti-discrimination law prohibiting any similar kind of discrimination.

The third considerable issue to combat precarious work in the 2007 legislative process was a change to the number of consecutive fixed-term contracts in temporary work. Since 2001, employers could renew fixed-term contracts an unlimited number of times. The 2007 amendment, preceded by social partner discussion in the tripartite forum, brought a limitation to temporary work (prolongation of fixed-term contracts maximum three times within two years). This step was left without heated debates in the media about the stances of social partners, mainly because of the strong and clear position of the government.

Besides the described bargaining activity of KOZ SR at the tripartite council, unions sought support for their action also outside of the council. In particular, unions collected 18,000 signatures of citizens to support the new Labour Code amendment (TASR, 2007). However, due to the manifested mutual support between the unions and the social-democratic ruling party, such action was more symbolic than a real political action to support changes to the legal regulation of precarious employment. Trade unions also expressed support to the amendment through declarative mobilization of some hundreds of individuals in the streets while the Labour Code amendment has been subject to approval by the parliament.

The 2010 parliamentary elections brought a surprising change to the government structure. The new conservative-neoliberal government launched a legislative process to amend the Labour Code only a few months after taking office. Among others, this process comprised important changes to the regulation of precarious employment (e.g., the number of consecutive contracts in fixed-term employment) and trade union codetermination (e.g., trade union approval of the temporary flexikonto scheme at particular workplaces).

Trade unions remained very critical of the suggested changes to the Labour Code in 2011. Their critique targeted the fact that the proposed Code attempted to significantly increase labour market flexibility and precariousness while seriously limiting employment security. From the unions' perspective, the proposed changes aimed at exposing an even greater part of the Slovak labour market to precariousness because of the following:<sup>15</sup>

- extended probationary period to 6 months with the possibility to dismiss the employee anytime
- greater employment insecurity because of more temporary contracts and their extensions
- the law shall guarantee only the statutory minimum wage of EUR 317 instead of the current six levels of

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<sup>15</sup> Source: SOZZaSS Newsletter 2/2011 in [www.sozzass.sk](http://www.sozzass.sk) [accessed March 22, 2011].

minimum wage depending on the character of work. Trade unions criticize that wages can remain as low as the minimum wage in workplaces without a collective agreement

- shorter length of notice upon dismissal and easier dismissal processes (i.e., dismissal without a specified reason)
- role of trade unions and Labour Market Authority shall be more limited in hiring and firing
- trade unions' codetermination in issues of working time, overtime, work norms and other workplace regulation should be more limited
- in case of lockouts due to lack of production inputs on the employers' side employees are entitled only to half of their regular wage
- lower dismissal protection of selected groups of employees (i.e., pregnant women, parents taking care of young children or disabled family members)
- *flexikonto* (a particular form of temporary precarious employment, see section 1.2 of this study) at the workplace will no longer require trade union approval
- overtime payment no longer legally guaranteed but subject to agreement between employer and employee

Given the strong disapproval of the proposed amendment, unions again took an active role in political debates in the legislative process. As before, unions concentrated all their resources for action in the tripartite council, where union representatives repetitively presented their strong opposition to the amendment. To support dissatisfaction with the proposed changes, on several occasions union representatives left the negotiating table and complained that social partners were not given enough time to respond to and negotiate such serious changes in labour legislation. Outside of the council, unions engaged in direct political debates in various parliamentary fractions, seeking support among members of the parliament. Beyond political instruments, union action against the Labour Code amendment comprised several events, the common denominator being seeking support to stop the legislative process of the Labour Code amendment. Two events have been particularly visible to the public: a petition "For Maintaining the Old Labour Code"; and a demonstration of several thousands of trade union members and supporters in Žilina, the regional industrial centre of North-Western Slovakia (TASR, 2011 b). Interestingly, unions relied much less on media-oriented instruments in their action's repertoire when compared to the 2007 legislative process. Finally, an interesting question is the motivation of unions to engage in the above action. As already noted, the 2011 Labour Code amendment aimed at limiting union codetermination rights also in issues not directly related to precarious employment. According to the representative of OZ KOVO (the metalworkers' trade union), the main motivation why unions mobilize for action has been the maintaining of their legitimacy, thus not directly the interests of (potentially) precarious employees (OZ KOVO, 2011).

In sum, the above examples show that unions consider political action the most important tool to decrease, or at least to regulate, precarious employment in Slovakia. However, political action brought success to unions mainly when drawing on political support by the parliament and government. Without such support, unions' capacities for independent political action are limited. While drawing on resources of political cooperation with the ruling party in the 2007 legislative process, trade unions succeeded in reducing precarious work and facilitating a transition of precarious employment to regular employment through legislative changes. Their efforts have been to a greater extent acknowledged in the tripartite council and more visible in the media than in the 2011 amendment process. In contrast, in the 2011 process unions lost

political support of a strong governmental party, which had direct consequences on the effectiveness of union action. First, unions were dissatisfied with procedural conditions of discussing the proposed Labour Code amendment in the tripartite council. Second, unions seem to have taken a less active role in the social dialogue at the national level than in the 2007 process. Union action tended to be responsive, lacking a proactive approach to bringing forth own proposals for the regulation of precarious work. Third, despite limited resources and capacities for individual action, union representatives are well aware of their important role in the legislative process. This is because unions are equipped with veto rights in the tripartite council, which may produce long and ineffective negotiations. Such stretching of the legislative process is a negative sign also for the government and for employers, therefore, compromise with the unions in tripartite negotiations is often the preferred alternative. Building on this observation especially since the 2007 negotiations, unions have learned to “ask for the maximum” (e.g., in the case of requesting a maximum of six weeks of discrimination for precarious employees), knowing that tripartite negotiations are likely to produce a compromise between the involved partners (e.g., a mutual agreement on three months of allowed unequal treatment of precarious employees) rather than a direct defeat of one of the parties. Therefore, union pressure in the political sphere and especially in the legislative process is regarded as the strongest from all social partners.

### **2.1.2 Contesting precarious employment in retail chains**

Taking a sectoral perspective, the retail sector recently experienced an upward trend in precarious employment. The Trade Union Federation of Employees in Retail and Tourism (*Odborový zväz pracovníkov obchodu a cestovného ruchu*, OZPOCR) documents mainly the growth of fixed-term employment, TAW and part-time work. Within a general negative attitude towards precarious work, the union criticizes mainly the following two issues: discrimination against temporary agency workers; and growing uncertainty deriving from part-time work. First, the union documents and monitors financial discrimination against temporary agency workers in one of the largest retail chains in Slovakia. The way such discrimination occurs at the workplace derives from an employer manipulation of employment contracts: after finishing regular daily hours as a cashier in a hypermarket, employees continue to work extra hours as a cashier; however, as a temporary agency worker hired through an agency. In this case, the hourly wage is lower, because this working time is practiced under a separate employment contract and this working time does not count as overtime. If employees would simply work longer hours but have only a single contract with the employer, the employer would be obliged to pay for overtime work. However, the employer engages in hiring the same employees under two different contracts, which allows for discrimination in pay. Second, precariousness originating from part-time work relates to uncertainty of working time and income. While employers aim at a highly flexible workforce, an employee may learn his/her work schedule only a few days ahead, which complicates planning private activities and produces constant uncertainty in working time, work organization and pay (in case of wage per hour). In sum, precariousness in the retail sector functions mainly through unilateral employer manipulation with contracts and working time, which has negative implications for employees' wages, coordination of work with private life, and increased dependence of employees on the employer.

OZPOCR strategy in response to the above kinds of precarious employment in retail is best described as an

attempt to *reduce precarious work* and *organize precarious employees*. Recognizing that a full elimination of precarious employment is impossible, the union aims at equal working conditions, including pay and access to decent working time arrangements, for all employees regardless of their type of employment contract. The emphasis is on the one hand on a bottom-up approach drawing on direct interaction between the union and particular retail chains (e.g., Tesco, Billa, Ahold); on the other hand on a top-down approach to regulate precarious employment through legislation. For the former, structural preconditions such as union workplace presence and a fair relationship with the retail chain management is crucial. These structural preconditions are at place, which to some extent facilitates union efforts despite a large power asymmetry between the union and large retail chains. In contrast to the strategy of reduction, the strategy of organizing precarious workers is less prominent and less effective. Unions face a declining membership throughout the whole economy, and find it increasingly difficult to organize new members, especially from among outsiders on the labour market (e.g., precarious employees and young people). Nevertheless, the retail sector union reports a diverse membership, including members from among precarious employees. This differs from some other sectors, most notably the metal sector, where union membership is more homogeneous as organizing efforts targeting precarious workers bear very high costs and the union does not actively engage in such efforts (OZ KOVO, 2011).

Three kinds of instruments are functional to the described union strategy: political action to improve legal regulation on precarious employment, dissemination of information and services to precarious employees, and engagement in litigation to uncover the abuse of precarious employment and avoid the institutionalization of informal practices in conflict with the Labour Code. Due to a culturally and economically determined reluctance of the Slovak workforce to engage in mobilization activities (strikes, protests, petitions), the union prefers long-term and regular action to organizing large-scale targeted campaigns against precarious employment. Another reason for such a choice of action derives from the fact that the retail sector union itself lacks own capacities (organizational, financial and membership-based) to engage in more visible and targeted action and high-cost mobilization efforts to reduce precarious employment.

The first instrument – involvement in legislative changes to regulate precarious work – is perceived as most important and effective tool to influence employer behaviour. However, OZPOCR is not directly involved in the political process of shaping legislation, but through its KOZ SR membership interacts with the peak-level union confederation also on legislative issues. OZPOCR directly engages in the latter two instruments – information/services and litigation. The union regularly diffuses information on employment rights and obligations, including health and safety provisions, through information bulletins and direct interaction of union representatives with workforce at particular workplaces. Although there is no action selectively targeting precarious employees, the union provides services and information to all employees (e.g., legal advise and monitoring employer practices). The union is inclusive not only in its services, but also in terms of membership, representing the interests of all employees in the retail sector despite difficulties in organizing precarious employees. The final instrument set out to reduce/eliminate precarious employment is the union's regular monitoring and reporting activity, which sometimes leads to litigation or at least to inspections of working conditions by the Labour Inspectorate. This instrument is effective at lower levels of action than the national level, because requiring a solid union presence at particular workplaces in retail chains. Through



daily interaction of union representatives with the workforce, the union is able to uncover cases of working time abuse (e.g., working as a TAW or under an assignment contract in the hours that should normally count as overtime hours, etc.). The reporting of such cases also happens through direct interaction between union representatives and the management of a particular retail chain. Next, the union interacts with the National Labour Inspectorate, which has the right to formally penalize employers. The main problem in this process is the power asymmetry between unions and retail chains and a related lack of enforcement. Even if the employer is aware of its unlawful behaviour, the union, and to some extent the Labour Inspectorate, too, lack power to enforce a correction of such behaviour. Therefore, union efforts to reduce such forms of precarious employment are only partially successful, because employers repetitively engage in working time breaches. Their financial punishment is low when compared to benefits obtained from a flexible and cheap workforce. The union strived to implement a stipulation that after three incidents of breaching the Labour Code the retail chain would lose its licence (OZPOCR, 2011). This attempt was not successful due to employer reluctance and a lack of support by the government, because large international retail chains possess economic power resources deriving from their relevance for the Slovak economy.

An additional instrument to reduce precarious work has been OZPOCR's attempt to modify the company-level collective agreement of a particular retail chain by including a stipulation that the company will hire preferably employees with open-ended full-time contracts. This attempt failed due to employer resistance. At the sector-level, it would be even more difficult to bargain such provisions, because the sector-level collective bargaining in retail comprises 101 employers with diverse interests. Therefore, OZPOCR does not view collective bargaining as a key instrument in its strategy to reduce precarious work.

To sum up, the general long-term strategy of trade unions in the retail sector, organized in OZPOCR, is the reduction of precarious employment. To achieve this goal, unions however do not engage in specific actions targeting specific actors, i.e., the government, employers' associations, the public, or precarious employees themselves. Instead, unions engage in long-term, step-by-step action, comprising mainly monitoring and reporting abusive employer behaviour at the workplace level, disseminating information and offering services to (precarious) employees. These instruments are supported by political action to shape legislation on precarious employment at the national level, which is in the eyes of Slovak trade unions the most effective instrument to contend with precarious employment.

However, due to a large power asymmetry between unions and retail chains, union action to reduce precarious work is not always effective. For example, an attempt to introduce stricter rules against manipulation with working time and employment contracts failed due to employer resistance. Such effort faced immediate opposition by employers and indirectly also by the government, because retail chains possess high economic power resources as they belong to major players in the Slovak economy. This leaves the union with limited power resources for particular action beyond the kind of action described above.

## **2.2 Collective bargaining on precarious employment**

Besides political tools and direct monitoring and reporting activities, collective bargaining is an important instrument in trade union strategies addressing precarious work. Slovakia can be characterized by a firmly established bargaining structure, with sector and establishment level bargaining playing the most important



role. Procedural bargaining issues and coverage varies across sectors, with some sectors being more widely covered by higher-level (sectoral) collective agreements (*kolektívne zmluvy vyššieho stupňa, KZVS*), e.g., the healthcare sector; while other sectors lack this kind of bargaining coordination and are characterized by an extensive use of company/establishment-level collective agreements (e.g., agriculture). In many EU member states regulation through collective agreements can be considered part of the legislative framework. However, in Slovakia, KZVS do not have the power of legal regulation because of diversity and dispersion of KZVS, varying coverage of KZVS across sectors, no existence of national-level binding collective agreements (*generálne dohody*, concluded prior to 2001), lack of enforcement of concluded agreements, sectoral differences in enforcement of KZVS, the strong role of the Labour Code and finally the concentration of trade union resources on political action to shape legislative changes. For these reasons, we treat collective agreements as *outcome* of trade union efforts rather than a legal resource facilitating union action.

Although unions ascribe a central role to bargaining, we did not find extensive evidence on collective bargaining with the aim to explicitly regulate precarious employment. Two exceptions are the metal sector (sector-level bargaining) and the sector of agriculture (establishment-level bargaining).

### **2.2.1 Collective bargaining in the metal sector**

The metal sector covers a variety of employers, with car manufacturers, steel producers and machinery producers being the most important actors. The sector is well organized, with the single sector-level trade union OZ KOVO representing metalworkers' interests across the landscape of various employers. On the employer side, there are several interest associations that bargain with OZ KOVO individually.

The metal sector is strongly integrated with international markets because of Slovakia's focus on car assembly and local spill over effects in the form of delivering supplies for car industry. Given this close integration, the economic crisis had serious consequences on production and employment in the Slovak metal sector. OZ KOVO notes mainly the growth of part-time contracts, flexikonto and TAW. While large firms aimed at maintaining the core pool of skilled workers also during the crisis, they were reluctant to hold on to all groups of employees. Trade unions documented an increasing gap in how employers responded to the crisis through their attitude to insiders (the core group of regular employees) and outsiders (precarious employees having various forms of precarious employment contracts). Large foreign employers in the car industry, steel industry and machinery production have shown greater commitment to preserving a skilled pool of labour and therefore offered more generous conditions to employees shifted temporarily into precarious employment arrangements (e.g., flexikonto in car production employers, or a 60% wage reimbursement in case of lockout due to low production in a steel producing company). Other employers opted for more severe decisions and laid off part of their workers, mainly bogus self-employed and agency workers. The third group of metal employers increased pressures onto regular employees, which were pushed to involuntarily accept reduced working time contracts.

OZ KOVO is the only sector-level union that elaborated a definition of precarious work, classified types of work considered as precarious and published this document on their website. Compared to the definition/specification of precarious employment for this study, OZ KOVO's specification is broader,

counting other types of employment as precarious (shared employment, any kind of employment contract in which the Labour Code allows dismissal without specific reasons, employment on the basis of a business contract instead of an employment contract, home work and tele work, work on call). At the same time, the union prefers to use the term '*non-standard employment forms*' to the term '*precarious employment*'. This effort to elaborate the definition and conditions of precarious employment may suggest that the union also invested in elaborating an intended strategy to address precarious employment through particular action. However, we did not encounter evidence on such strategy or action. The interview with OZ KOVO representatives yields that fighting precarious employment is not the strategic goal of the union, and the union does not engage in particular action to cope with precarious employment. There are several reasons why OZ KOVO's priorities do not comprise responses to precarious employment. First, given the weakening membership base and legislative changes to limit the unions' codetermination rights, the union is preoccupied with stabilizing its position at workplaces and at the sector-level, struggling to maintaining own legitimacy. Second, the union reports difficulties with organizing precarious employees, especially agency workers, because they change jobs across sectors too frequently to develop a long-term commitment to a particular sector-based trade union. Finally, the skill base is of crucial importance in the metal sector, and the union allocates all its resources to address the interests of skilled regular employees, improving their working conditions and first of all their job security in the aftermath of economic crisis. In more general terms, the above reasons suggest that OZ KOVO is an interest representation organization of insiders, or core skilled workers in the metal sector. The unions' strategy vis-à-vis precarious employment can best be described as exclusion of precarious workers from mobilization attempts, from union services and from collective bargaining. However, this kind of strategy is not the result of a purposeful union goal to exclude precarious workers. Rather, the strategy is a natural consequence of the interplay between the dual character of work in the metal sector (skilled insiders vs. less skilled outsiders), the post-crisis developments shaping employers' and unions' interests to protect the core skill based pool of workers in large firms, and the unions' limited resources to organize and mobilize all kinds of employees in the metal sector including temporary workers and agency workers.

Despite the above strategy of exclusion, OZ KOVO is the only sectoral union that ascribes an important role to collective bargaining as an instrument in addressing precarious employment. In the metal sector, we find two sub-sector collective agreements for the period of 2010-2011, which have particular stipulations referring to precarious employees: the collective agreement in electronics; and the steel sector collective agreement. OZ KOVO initiated these stipulations, which were then accepted by employers and became part of sector-level collective agreements. The content of these provisions aligns with the above-described union strategy of protecting core workers and forfeiting precarious employees in case of layoffs due to the crisis. In particular, each of these collective agreements stipulate the order in which employees shall be dismissed in case dismissals are necessary; and the order in which employees should be hired again once the concerned firms recover from the crisis. Dismissals should happen in the following order: temporary agency workers, subcontractors, self-employed, employees with a fixed-term contract, and other employees from the remaining core group of employees only in case of oversupply of labour. Next, these agreements stipulate that employers should introduce flexibility measures at workplaces in order to protect the employment of the core group of skilled workers. Upon recovery, employees should be re-hired in the opposite order, thus starting with dismissed regular employees, temporary employees, self-employed, subcontractors and finally agency workers. This order suggests that TAW is the most precarious employment form in the metal sector,

and agency workers are clearly considered as outsiders not only by trade unions, but also by collective regulation through sector-level collective agreements. Because of such regulation, the transition from precarious employment to regular employment is exceptionally difficult; and collective agreements further facilitate the divide between insiders and outsiders through protecting employment of skilled regular employees.

### **2.2.2 Collective bargaining in agriculture**

The sector of agriculture underwent major transformation since the regime change in 1989 and again after Slovakia joined the EU in 2004. Given the EU regulation on agricultural production, an oversupply of agricultural production in Slovakia has been recorded, causing a number of firms to close down. The current landscape of firms in the sector covers state-owned companies, public companies, agricultural service companies (e.g., biological and technological services), schools specializing in agricultural engineering, and private firms/farms in agricultural production. Trade unions argue that precariousness exists mainly because of the seasonal character of work, hiring of informal seasonal and migrant workers, hiring workers on assignment contracts instead of regular employment contracts, unpaid family work on farms, and unpaid overtime work over weekends and holidays dependent on harvesting activities.

Employees in agriculture are organized in company-level trade unions, which are in turn organized in the single sector-level Trade Union Federation of Employees in Agriculture (*Odborový zväz pracovníkov poľnohospodárstva*, OZPP). Trade unions are mostly present in agricultural production firms; and according to OZPP this is the most important cohort of firms where union presence is necessary. The union reports a slight decline in precarious employment in agriculture in the recent years, and expects a further decline over the coming years.<sup>16</sup> OZPP maintains that the reason behind this decline is a strong trade union presence at workplaces and involvement in monitoring employer behaviour. Although the union does not collect exact data on the extent of precarious employment, less precarious employment is observed in companies with trade union presence.

OZPP does recognize the challenge of precarious work and attempts to address it through its action. However, the union argues that its repertoire of action is limited by legally stipulated union rights. In particular, the fact that *precarious employment* as an institution lacks legal and juridical recognition poses great limitations onto union action to reduce precarious employment. The general strategy of OZPP is thus *‘achieving equal basic social rights and access to them for all workers in agriculture, including precarious workers’* (OZPP, 2011). In other words, OZPP opts for an inclusive strategy vis-à-vis precarious employees; and adopted a strategy to cover all employees instead of treating precarious employees as a separate group requiring special trade union attention.

The most important instrument to accomplish OZPP’s inclusive strategy is collective bargaining. Bargaining happens at the sector-level (one KZVS between OZPP and the Federation of Employers in technical services in agriculture and forestry Slovakia, *Združenie zamestnávateľov technických služieb v poľnohospodárstve a*

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<sup>16</sup> Source: OZPP questionnaire response to the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) project on precarious work, February 2011.

*lesníctve Slovakia*; and two public sector collective agreements covering state-owned and public agricultural companies), but the decentralized, company-level bargaining is the most important. In mid 2011, there were 75 company-level collective agreements in force and others were in negotiation (OZPP, 2011). Although precarious employment does not enjoy a separate regulation through tailored collective agreements, it is addressed through general stipulations of collective agreements covering all employees. One of the reasons why the union finds it unlikely to conclude exclusive collective agreements for precarious employees is the above-mentioned fact that precarious employment as an institution is not recognized by Slovak legislation. Another reason is the current extension of company-level collective agreements onto all employees, which demotivates precarious employees (especially seasonal workers and family members working on farms) to organize in trade unions. These issues in turn reduce union resources and interest to negotiate separate collective agreements for precarious employees. Finally, a significant part of precarious employment is located among informal employees, which again leaves trade unions (operating exclusively within legal domains) with a limited word on working conditions of informal workers.

In the bargaining process, unions strongly rely on their legal power resources (e.g., on union codetermination and information, on particular working conditions, health and safety regulations, and the right to bargaining). An additional, and according to OZPP a very influential, power resource is the union's strong interconnection with the European sector-level Federation of Food, Agriculture and Tourism Trade Unions (EFFAT). OZPP representatives directly participate in the executive committee of EFFAT and frequently transpose information from EFFAT to domestic union strategies. The union maintains that presenting the standpoint of EFFAT is a very influential tool to reach an agreement even in company-level collective bargaining. This issues opens an interesting research question on the extent of European influence in trade union responses on precarious employment in particular EU member states (see also section 2.3 below).

The content of collective agreements differs from other sectors, e.g., the metal sector. Whereas in the metal sector wage increases and job security provisions are the most important bargaining outcomes, the short-term nature of work in agriculture shifts the content of agreements onto health and safety provisions at the workplace. Besides that, agreements in agriculture contain a detailed tariff wage structure. Job security as a bargaining provision is less important, and unions argue that pushing for provisions on job security would cause immediate employer opposition and trade offs in already agreed provisions. In particular, employers would hire more precarious workers, i.e., informal employees or students on assignment contracts to work just for a few days. This would have negative externalities on union legitimacy and indirectly also on union membership. Therefore, unions consider the bargaining outcomes a fragile compromise, in which unions tolerate the lack of bargaining on job security, and employers agree to concessions on less precarious employment than would be rational from the employer's point of view.

Although bargaining is the central instrument to combat precarious work in agriculture, trade unions do not only rely on bargaining in the issue of health and safety provision and protection of legally granted employee rights. We found evidence on two other instruments: the first one is a targeted diffusion of information directly to employees; the second is direct inspections at workplaces, a close cooperation with the National Labour Inspectorate and involvement in correction measures. First, OZPP publishes a newsletter and organizes own training activities on health and safety regulations and on employment rights. For this, the union engages professionals from the field, including lawyers involved in the creation of the Labour Code.

Participation of workers in such events is voluntary; and experience shows that employee motivation to participate is often determined by social factors (e.g., the network effect of colleagues participating, expected benefits, provision of free meals, etc.). Second, the union engages in two kinds of monitoring activities, concerning predominantly health and safety issues, but also employment conditions (including the uncovering of informal labour in general and informal migrant labour in particular). Interestingly, the interaction with the National Labour Inspectorate in the latter kind of monitoring activities differs from the retail sector presented in section 2.1.2. In retail, unions take a proactive approach and directly monitor employer behaviour, reporting abuses to the Labour Inspectorate. This kind of proactive approach is less obvious in agriculture, where unions tend to be responsive to the findings of the Inspectorate and mainly engage in correction mechanisms. The proactive kind of interaction also exists, but is less important. One of the reasons is that OZPP has its own inspectors, which however focus more on health and safety issues than on controlling employment conditions.

### **2.3 Other forms of addressing precarious employment**

Next to the instruments presented above, unions find some other activities important in addressing precarious employment and facilitating its reduction. These instruments operate mainly indirectly, because they target all employees and not selectively precarious employees.

The first initiative, which has a potential to facilitate a transition from precarious to regular employment, or to improve working conditions of precarious employees, is the extension of collective agreements, institutionalized by Act No. 2/1991 on Collective Bargaining. Until the end of 2009, collective agreements could have been extended voluntarily and selectively to firms where trade unions and/or employers' associations were present and both or one of them agreed to such extension. Obligatory extension did not apply outside sector-level employers' associations. The ruling social-democratic government (2006-2010), with strong support of trade unions, introduced an amendment to Act No. 2/1991, thereby aiming to improve the decreasing coverage of sector-level collective agreements. This amendment, valid from January 2010, stipulated a flat sector-wide extension of higher-level collective agreements. Trade unions were strongly in favor of the flat extension, whereas employers openly showed their discontent. Some trade unions, e.g., OZ KOVO, started extension procedures almost immediately after the adoption of the amendment. The former minister of labour, social affairs and family Viera Tomanová signed the decree of extension on her last day in the office in 2010. However, after the change in government in 2010, the new minister Jozef Mihál soon revoked this decree and stipulated a return to earlier status quo of voluntary extensions. Trade unions consider this as a major political defeat but continue in their strive to re-introduce the horizontal extension mechanism. A reversal to horizontal extensions has however been unlikely during the term of the conservative-neoliberal government.

The second instrument that trade unions consider relevant for reducing precarious work is an improved enforcement of the existing legal regulation. Unions claim that the regulation itself is appropriate, but criticize the lack of its enforcement. In the long-run, trade unions through KOZ SR strive for a functioning

system of labour courts and a monitoring/reporting mechanism of employer behaviour.<sup>17</sup>

Third, trade unions invest in a firmly established and regular interaction with the National Labour Inspectorate in order to uncover illegal employment practices, including unlawful precarious employment (e.g., assignment contracts instead of regular employment contracts, working time manipulation, etc.). KOZ SR formally signed a decree of cooperation with the Inspectorate, and sector-level unions cooperate with the Inspectorate in concrete cases (see sections 2.1.2 for retail sector and 2.2.2 for agriculture).

Fourth, KOZ SR ascribes a relevant role to its aim of adopting a systematic plan vis-à-vis precarious employment. The confederation did not yet elaborate a particular strategy or action plan in response to precarious employment, but intends to do that in the future. Currently KOZ SR engages in mapping the labour market situation across particular sectors. Evidence collected through sector-level unions that are KOZ SR members should serve as the basis for clarifying union attitudes and launching the preparation of such action plan.

Fifth, trade union efforts to diffuse information about legally stipulated employee rights can be described as engaging in identity politics. With some abstraction, these efforts aim at influencing the self-recognition of precarious employees and stimulating their empowerment based on the fact that precarious employees shall recognize particular challenges of their particular employment situation and address them by revising their choices (especially in case of voluntarily precarious employees, such as the bogus self-employed). Identity politics is by far less important than the tools described above (mostly political action and collective bargaining), but serves as a supportive instrument in trade unions' repertoire of action. Related to identity politics is the effort to shape the general perceptions on employment standards in the society. Trade unions engage in this effort through stable information campaigns on employees' rights e.g. through newsletters and information on trade union websites.

Finally, we found a close coordination of the agricultural trade union OZPP with EFFAT. In 2010, EFFAT launched a project on precarious employment, which collects evidence on practices in precarious employment and collective regulation of precarious employment across all EU member states in the relevant sectors. This finding motivates future research to study the extent to which trade unions in particular member states address precarious work upon initiatives of European sector-wide trade union federations. In other words, how do European union resources spill over into strategies and instruments of domestic trade unions' efforts to regulate/reduce/eliminate precarious employment? Although findings from the EFFAT project are not yet available, the interviewed representative of OZPP in Slovakia confirmed that drawing on international union resources is in general beneficial in collective bargaining in the domestic labour market conditions. Employers are more eager to accept trade union attitudes and suggestions if they refer to an international union strategy or a particular international project. It remains to be seen whether and how Slovak unions benefit from policy advice resulting from the EFFAT study. If such efforts would indeed be successful, one could elaborate a unique case study on selective action of a Slovak trade union federation on the issue of reducing precarious employment.

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<sup>17</sup> Source: questionnaire response from the KOZ SR vice-president, July 2011.



## **2.4 Evaluation of trade union responses**

To draw conclusions from the presented state of trade union responses to precarious employment, this section aims at evaluating trade union activities from three perspectives. First, it is the effort to organize precarious employees and represent their interests. Second, we will evaluate the effectiveness of strategies that unions adopted vis-à-vis precarious employment, and of instruments they have chosen to pursue their strategies. Third, we will briefly discuss the responses of Slovak trade unions on precarious employment in a comparative perspective of other EU countries.

### **Organizing precarious employees**

Evidence from across a variety of economic sectors suggests that trade union effort to organize precarious employees is marginal. Instead of seeking specific ways how to recruit union members among precarious employees, unions rely on general tools that target all employees and do not develop particular organization campaigns targeting precarious employees. This limitation stems from limited union resources to organize precarious (but also regular) employees. Unions have been facing a membership decline, and precarious workers build up only a fraction of all union membership (KOZ SR's estimation is 15%, see the beginning of section 2).

Within the existing union constituency, we did not observe special fractions of precarious employees and processes addressing their needs at any of the studied levels. At the confederation level, KOZ SR does not have a special fraction or a person assigned to address precarious employment.<sup>18</sup> This evidence leads to the following conclusion. The general attitude of trade unions to organizing precarious employees is inclusive; and addressing the interests of precarious employees is part of the broad union strategy without specific attention to differences between precarious and other employees. However, the consequence of this attitude is a lack of specific attention to organizing precarious employees and little effort to elaborate systematic focused strategy thereon. Taking this conclusion even further, the fact that organizing precarious employees lacks special recognition may actually fuel an exclusion of precarious employees from union structures and interests. This conclusion applies particularly to the metal sector trade unions.

### **Strategies and instruments vis-à-vis precarious employment**

Trade unions in Slovakia largely criticize precarious employment and its recent growth. Most unions share a general, long-term strategy of reduction in precarious employment. At the same time, our evidence suggests that unions do not extensively engage in developing a selective strategy and action targeting exclusively precarious employees' needs. Union strategies vis-à-vis precarious employment as an economic phenomenon are rather inclusive without separating strategies on regular and on precarious employment. The only exception to this finding applies to the metal sector, where trade unions' exclusive strategy is an unintended consequence of post-crisis responses to the protection of regular employment of a core pool of skilled workers in car production, steel industry and machinery manufacturing.

Political action, in particular, engagement into the legislative process, is considered the most important instrument in the hands of trade unions to reduce, or at least to regulate, precarious employment. However,

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<sup>18</sup> Source: Questionnaire response from the KOZ SR vice-president, July 2011.



the lack of own capacities to develop a proactive approach to the regulation of precarious employment, coupled with dependency on political support, leaves the Slovak trade unions with little success in using this instrument. Union initiatives are responsive and build on veto rights and power relations in the tripartite council rather than on genuine union proposals on particular legal stipulations. This gives more manoeuvring space for other interest groups, most importantly employers and business groups in general, in pursuing the legal regulation of precarious employment in their desired direction.

Collective bargaining is perceived as the most important instrument for improving the employment conditions of precarious employees. Bargaining draws on legal, organizational and European trade union resources. The latter union resource is particularly present in agriculture. Although unions ascribe a central role to bargaining, we did not find extensive evidence on collective bargaining with the aim to explicitly regulate precarious employment. Addressing precarious employment through bargaining happens within the general bargaining procedures and within general stipulations of concluded collective agreements. The character of bargaining and collective agreements aligns with the general inclusive strategy of unions and their long-term goal to reduce precarious employment. Nevertheless, bargaining as an instrument to address precarious employment bears less effectiveness than the legislative process, in the metal sector even producing an insider-outsider gap between privileged core employees and those whose employment status can be classified as precarious. Evidence on union action directly addressing precarious employment is marginal.

Other instruments in the attempt to reduce precarious employment have a supportive character and are secondary to the legislative process and collective bargaining. Such supportive activities include diffusion of information, training sessions on health and safety provisions and on employee rights, engagement in monitoring unlawful precarious employment and cooperation with other institutions, namely the National Labour Inspectorate, in uncovering and correcting illegal employer behaviour.

In sum, the general long-term strategy of trade unions is the reduction of precarious employment. To achieve this goal, unions engage in long-term, step-by-step action at national, sectoral and company level. Such action comprises several instruments: political (involvement in the national legislative process), collective bargaining (concluding collective agreements that directly or indirectly address the working conditions of precarious employees), service-oriented instruments (diffusion of information and offering training), and litigation (reporting/monitoring unlawful employer behaviour). In a marginal extent, unions engage in identity politics (dissemination of information to influence identities of precarious employees and support their empowerment) and attempt to shape the societal benchmarks on decent employment. The effectiveness of the above instruments varies according to the type of instrument and the level at which the instrument is used. At the national level, political instruments turned out to be effective only if unions drew on strong political resources (support of a ruling party). The effectiveness of collective bargaining depends on the extent of power asymmetry between the unions and employers in particular sectors, and the character of bargaining provisions (job security, wages vs. health and safety stipulations). The effectiveness of litigation is relatively high, but limited by the institutionalized enforcement mechanisms to correct employer behaviour. Finally, the use of other instruments has a supportive character, and their effectiveness in directly reducing precarious employment requires an in-depth inquiry, which is beyond the scope of this study.

### **Comparing trade union responses to precarious work with other countries**

When comparing the presented responses of Slovak trade unions to unions in other EU countries involved in the internationally coordinated project, we find that the strategy of reduction or elimination of precarious work as such and an inclusive treatment of precarious employees within trade union structures is similar to other countries. However, responses of Slovak trade unions differ from their foreign counterparts in the choice of instruments that align with these strategies. In particular, we argue that Slovak unions show less engagement in targeted purposeful campaigns particularly addressing precarious employment. Unions lack own proactive initiatives and their action tends to be responsive to other social partners' interests and to general labour market developments (e.g., post-EU developments particularly in agriculture, and post-crisis developments in the metal sector).

An important question then is, what factors drive these differences. First, all other countries in the international project are old EU member states, where trade unions enjoyed a longer period of growth and development without a major societal disruption like the 1989 regime change in Central and Eastern European countries. As already mentioned above, unions in Slovakia have to fight hard for maintaining their legitimacy and their statutory rights, which were being curtailed in several Labour Code amendments. This focus on unions' own role in the society shifts away the available (limited) resources from other issues, including the phenomenon of precarious employment. Another reason, which necessitates a closer comparative investigation, is that precarious employment is possibly not yet that widespread in Slovakia than in Western European EU member states, which have to be more innovative in maintaining flexible and competitive labour markets vis-à-vis international labour competition. A third possible reason is the character of the domestic labour market, in particular, high unemployment (see introduction to section 1 of this study). The fear of unemployment creates power asymmetries in the labour market between employers and employees/unions (e.g. as shown in the case of retail chains); and provides incentives for employers to hire precarious employees as a flexible and feasible way to secure a strong position among competitors. Because of high unemployment, individual employees and job seekers are more eager to accept a precarious type of employment with less social protection, less job security, and/or lower pay. Finally, an important reason is the fact that the tax system and social security institutions create incentives for individuals to opt for some forms of precarious work. This is especially true for bogus self-employment.

Questions beyond the scope of this study, but crucial for an improvement of the effectiveness of trade union action on precarious employment, relate to potential lessons that unions could learn from their foreign counterparts, from European-level trade unions, but also from internal organizational and procedural challenges they face in Slovakia.

## Annex 1: Types of precarious employment in Slovakia and their comparison with working conditions applicable to a standard employment contract

Type of the work agreement	Wage and working time conditions	Social security conditions	Dismissal period and/or length of contract	Holidays	Remarks
Fixed-term contract	As for regular workers	As for regular workers	Contract length max. for 2 years, one possibility of contract extension	As for regular workers	Difficult access to credits and mortgages. The fixed term contract does not provide the security of regular income.
Shorter working time	Reduction of wage proportional to reduction of working time	Social security contributions proportional to wage reduction	If the contract is reduced to 15 hours/week the dismissal period is 15 days. In other cases the full-time employment dismissal period applies	Reduction of days of holiday proportional to reduced working time	N/a
Flexikonto	As for regular workers	As for regular workers	As for regular workers	Irregular days off but regular right for holidays	Used as flexible tool during the crisis when the wage is paid regularly but working time is irregular according employer needs
Temporary agency work (TAW)	As for regular workers	As for regular workers	As in full time employment	As for regular workers	The National Labour Inspectorate reports abuse of TAW mainly because using the Work Performance Agreement
Dependent self-employment	Super gross wage paid to the employee (without deductions of payroll taxes and social security contributions)	At full responsibility of the employee	Not applicable (a business contract instead of an employment contract)	No	Social security contributions paid often only from the legally stipulated minimum
Work performance agreement	Contract is for 350 hours/year for one employer. The minimum hourly wage is legally stipulated	No obligatory social security contributions paid by employer or employee	15 days	No	Often abused to replace other forms of employment (e.g. part time or temporary employment) to avoid social security contributions
Agreement of work activity	10 hours/week maximum. The minimum hourly wage is legally stipulated	No obligatory social security contributions paid by employer or employee	15 days	No	Often abused to replace other forms of employment (e.g. part time or temporary employment) to avoid social security contributions

Source: authors' compilation based on the applicable legal regulation

## Annex 2: List of respondents to questionnaire on precarious employment

Trade Unions			
Slovak name	English name	Response	Web
Konfederácia odborových zväzov SR	Confederation of Trade Unions of the Slovak Republic	written	<a href="http://www.kozsr.sk/">http://www.kozsr.sk/</a>
Odborový zväz KOVO	Metal Workers' Trade Union Association KOVO	telephone, interview	<a href="http://www.ozkovo.sk/">http://www.ozkovo.sk/</a>
Odborový zväz pracovníkov poľnohospodárstva na Slovensku	Trade Union Association of Employees in Agriculture in Slovakia	telephone, interview	<a href="http://ozpp.meu.zoznam.sk/">http://ozpp.meu.zoznam.sk/</a>
Odborový zväz DREVO, LESY, VODA	Trade Union Association WOOD, FORESTS, WATER	written	<a href="http://www.ozdlv.sk/">http://www.ozdlv.sk/</a>
Odborový zväz pracovníkov obchodu a cestovného ruchu	Trade Union Association of Workers in Retail and Tourism	telephone, interview	<a href="http://www.kozsr.sk/ozpocr/index.php">http://www.kozsr.sk/ozpocr/index.php</a>
Odborové združenie železničiarov	Railway Workers' Trade Union Federation	telephone	<a href="http://www.ozz.sk/">http://www.ozz.sk/</a>
Slovenské odborové združenie pôšt a telekomunikácií	Slovak Trade Union Federation of Posts and Telecommunications	written	<a href="http://www.sozpt.sk/">http://www.sozpt.sk/</a>
Odborový zväz Zboru väzenskej a justičnej stráže	Trade Union Association of Corps of Prison and the Court Guard	written	<a href="http://www.zvjs.sk/?odborova-organizacia-zvjs">http://www.zvjs.sk/?odborova-organizacia-zvjs</a>

### Employers' Organizations

Slovak name	English name	Response	Web
Asociácia slovenských kúpeľov	Association of Slovak Spas	written	<a href="http://www.ask.sk/">http://www.ask.sk/</a>
Zväz hutníctva, ťažobného priemyslu a geológie SR	Association of Metallurgy, Mining Industry and Geology of the Slovak Republic	written	<a href="http://www.zhtpg.sk/">http://www.zhtpg.sk/</a>
Slovenská poľnohospodárska a potravinárska komora	Slovak Agricultural and Food Chamber	written	<a href="http://www.sppk.sk/">http://www.sppk.sk/</a>

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