

BARSERVICE

Towards smart bargaining in the Social Care sector in Serbia

Authors: Galjina Ognjanov,
Mihail Arandarenko, Dragan Aleksic

2024



The project is funded by the European Union, project No. 101126532

Table of contents

Executive summary	1
I. Sector identification and trends	2
II. Current state of collective bargaining	3
III. Challenges to collective bargaining	5
IV. Towards Smart Bargaining	7
V. European Perspectives	8
VI. Conclusions	8
References.....	10
Annex	11

Executive summary

The country report presents general overview of social care sector in Serbia, focusing more specifically on residential care activities (NACE 87) and activities of households as employers of domestic personnel (NACE 97), regarding most relevant labour market statistics, state of collective bargaining and its main challenges. Special attention is paid to the development of a novel and improved approach of Smart Bargaining.

Taken into consideration the share of employment, Social Care sector in Serbia, taken together with human health services accounts at 7.3% of total registered employment. However, specific characteristic of this services sector, particularly in regard to NACE 87 is that both public and private institutions appear as employers, while the number of employees is almost equally split between the two. This is particularly important in regard to collective bargaining, since the existing sectoral CBAs is only applicable to the employees in public institutions. While in public sector bargaining coverage is high due to existing sectoral CBS, collective bargaining in private sector is primarily company related yet available evidence suggests that in practice it is non-existent. In similar manner, collective bargaining in sub-sector NACE 97 is non-existent.

The report address specific challenges to collective bargaining in residential care activities, among which decreasing interest in unionization stands as the most relevant one. Therefore, it defines smart collective bargaining as a negotiation process which is sustainable, i.e. based on transfer of knowledge, skills and experience and finding ways to motivate new generations of workers, arguing that smart bargaining empowers trade unions thus potentially leading to enlargement of bargaining coverage.



I. Sector identification and trends

Over the last decade, services sector in Serbia has accounted for the highest share of registered employment, i.e. between 67 and 68% of total registered employment (CROSO). In 2023 the share of registered employment in services sector was 67.7% whereas according to the Labor Force Survey data (LFS) employment in this sector was 56.7% of total employment¹. Moreover, informal employment in services sector stayed lower than total informal employment throughout the observed period 2013-2023 (LFS). The most recent data show that informal employment rate for services was 5.4% in 2023, while the total informal employment rate was significantly higher (12.5%)².

According to the official statistics for 2023, registered employment in Human health and social work activities (Q) was 167,427 employees, or 7.3% of the total employment. As such, this sub-sector closely follows Wholesale and Retail Trade and repair of motor vehicles and motorcycles (H) with the highest employment share (15.7% in the total registered employment). Human health and social work activities is dominated by female workers (79.2%) and, among other, includes social care services (NACE 87 – residential care activities) which are in the focus of this country report. According to official statistics (registered employment) 10,212 employees worked in residential care activities in 2023. While the report also focuses on social care services provided in households (NACE 97 – Activities of households as employers of domestic personnel (T)) data on registered employment is not available. On the other hand, the number of employed in this sub-sector (T) is available from LFS (11,500 in 2023). Also it should be noted that informal employment rate is absolutely highest in this sub-sector (98.5% in 2020) contrary to Human health and social work activities belonging to the wider group of sub-sectors in services with smallest informal employment rates (1% in 2020). Female workers are also dominant in sub-sector T (78.1%).

Social Care sector in the Republic of Serbia is regulated by the Law on Social Care³. The Law stipulates the establishment of relevant institutions for provision of listed social care services and specifies the rights of social care beneficiaries, including the residential care activities (NACE 87). In accordance with the Law, residential care services can be provided by licensed social care providers, including public and private care providers. The Law also specifies employment of professional staff as well as their employment rights and obligations in regard to adequate provision of social care services, including licensing, certification, education and training.

Both public and private nursing homes for adults and elderly operate in Serbia. In total, 40 nursing homes and gerontologists centers are public, and another 270 are

¹ Detailed data are presented in Annex, Graph 1 and Graph 2

² Data on informal employment for economy and for Services sector are presented on Graph 3, in Annex.

³ The Law on Social Care, Official Gazette RS, No.24/2011; 117/2022

established by licensed entrepreneurs and private companies⁴. Apart from it, the demand for provision of nursing care services in households is growing. In addition to the employment agencies offering services of their certified personnel to work in households, there is a growing number of households as employers. Yet households as employers in Serbia still mainly make a part of gray economy. Work engagements in households are typically not formally contracted, taxes and contributions on salaries are not paid and individual labor rights mostly depend on personal employer-employee relations and informal agreement, with not a single evidence of an initiative for protection of workers collective rights.

Due to negative demographic trends and aging population the demand for social care services has been growing. Yet, the lack of professional staff remains among the most important constraints not only for further enlargement of nursing care provision but also retaining current capacities and service quality. In many cases, lack of individual and collective rights as well as poor working conditions coupled with low salaries pushed trained care providers to change their jobs or apply for provision of nursing care services in more developed EU countries. In line with that, current trends and specific characteristics of nursing care service providers call for further improvement of public policies, use of modern technologies and networking among institutions, but also paying special attention to the welfare of nursing care providers.⁵ Therefore, extensive implementation of (smart) collective bargaining as well as improvement of bargaining process and content stands as one of the main prerequisites for coping with the demographic and labor market challenges.

II. Current state of collective bargaining

Sectoral collective agreement has been signed between the Government of Serbia on the side of employer in public institutions providing social care services and trade unions. On national level, one of two major trade unions representing employees in human health and social care is affiliated with Confederation of Autonomous Trade Unions of Serbia entitled for participating in social dialogue on the national level and collective bargaining on sectoral level. Company level agreements are also possible yet not typical as in the public sector as such agreements still need to be signed by the three relevant parties – representative trade union at company level, executive director as well as minister in charge (representative of the Government as the employer in public sector). Therefore, collective bargaining in the public sector is rather centralized, mainly sectoral level, while company level collective bargaining remains rather neglected due to difficulties in involving the Government representatives in the bargaining process.

The sectoral agreement in force protects collective rights of all social care providers employed in public institutions, including public nursing homes. However, the sectoral agreement doesn't cover the employees in private sector. In theory, the

⁴ <https://www.021.rs/story/Info/Srbija/337997/Domovi-za-stare-u-Srbiji-Liste-cekanja-u-drzavnim-dok-u-privatnim-ima-dovoljno-mesta.html>

⁵ <https://www.danas.rs/vesti/drustvo/plata-negovateljica-u-srbiji-nemacka/>



agreement could be extended or private sector could bargain over a sectoral agreement, yet the interest between the private employers and employees in private sector remains very low. While many private employers are affiliated in Association of private nursing homes (170 private nursing homes are affiliated members) this association has not been recognized as representative and thus not eligible to participate in sectoral collective bargaining. On the other hand, there is no such interest within Employers Union of Serbia, the only representative association of private employers. In similar manner, examples of company level collective bargaining in private nursing homes in Serbia are not available. Typically, private nursing homes employ smaller number of employees (10-50), as their capacities are limited at 100 beneficiaries. However, since there are 270 licensed nursing homes in private sector, total number of employed could be estimated at 4,000-5,000 employees who are not unionized and thus not covered by collective agreements either at company or wider sectoral level. As previously noted, another 11,500 care providers who are employed by households are also exempted from any collective rights protection. Individuals directly employed by households do not have legal employment status and thus are not eligible to unionize and initiate collective bargaining. On the other hand, social care providers engaged by households through employment agencies are employees of these agencies thus eligible to organize in trade unions. However, in most of cases, employment agencies sign individual contracts with their employees specifying individual rights in accordance with the Labor Code⁶ as well as internal company acts, while trade unions do not exist. The underlying reasons are diverse. Among these, reduced interest for unionization in general as well as the fact that employees of employment agencies work in different households without even having opportunities to meet one another represent certainly the main constraints for collective bargaining.

The main actors in collective bargaining in Social Care are trade unions and employers (i.e. the relevant Ministry as the representative of the Government of Serbia in the case of public sector). Sometimes relevant professional association as well as public institutions are invited to participate in wider social dialogue on sectoral level yet they are not mandated to represent any of the parties in collective bargaining. The most important advantage of sectoral level collective bargaining is protection of collective rights on equal basis within the sector as the whole. However, standardization of working condition remains one of the main challenges in regard to care provision in households. Another advantage of sectoral level collective bargaining is stemming from the opportunities to initiate dialogue with various partners and develop collaboration. However, it is believed that the most relevant collective bargaining should be company level as this could only lead to higher protection of collective rights than those granted by the law and sectoral level collective agreement.

Overall, unionization of workers is decreasing and younger generation is generally less interested in collective bargaining. Wider unionization positively affects

⁶ Labor Code, " Official Gazette of the Republic of Serbia No. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014,13/2017-Decision of the CC, 113/2017 and 95/2018 - authentic interpretation

negotiation power of trade unions but it is also strongly dependent on personal competences, skills and strong partnerships and networks. Long-term tradition in collective bargaining in public sector, including social care resulted in relatively sound ground for implementation of social dialogue and protection of collective rights. However, decreasing interest in unionization as well as further development of negotiation skills and networking may negatively affect the trade union bargaining power unless these unfavorable trends are changed in near future.

III. Challenges to collective bargaining

Challenges to collective bargaining in Social Care (i.e. residential care activities) should be analyzed separately for public and private residential care providers. Additional challenges to collective bargaining also apply in regard to household care providers.

As previously explained public sector residential care providers as well as household care providers who are employees of public institutions are generally covered by sectoral collective agreement between the representative trade union and the Government of Serbia. Therefore, one of the main challenges remains further decentralization of collective bargaining at company level to assure further improvement of working conditions and collective rights, especially in the light of technological changes (e.g. digitalization, automatization) and further needs for trainings and education. Also, unionization of workers remains low, with younger workers not particularly being interested in becoming new members and participating in collective bargaining and developing bargaining skills. While trade unions have long traditions in Serbia, and still remain strongest in public sector the change of generation is often named as one of the challenges for further development of collective bargaining. Should current trade unions not develop their capacities to attract and activate new and younger membership collective bargaining even in public sector may soon become pro forma rather than a real institute for wider protection of employees' collective rights.

Deregulation, gender segregation, vulnerable groups and workers' rights do not represent specific challenges in social care sector (residential care activities and household care providers) in public sector. Moreover, female employees dominate in this sector representing according to LFS 79.2% in Human Health and Social Work Activities. Undeclared work in public sector is not existent and thus not an issue in regard to collective bargaining. Digitalization makes a specific challenge as the new digital systems have been implemented, but important issues (such as for example impact on posture, spine, eye-sight and similar) have not been taken into consideration. Thus these issues certainly need further attention in collective bargaining.

On the other hand, collective bargaining in private sector is not evidenced though the number of private nursing care homes is more than five times bigger than the public ones. However, the total capacities are almost equally split between the two, as well as the total number of employees. Thus, it is obvious that around 50% of employees

within the sub-sector (both in public and private companies) are not covered by collective agreements. All previously listed challenges apply in private sector in similar manner. Gender segregation should not be seen as a particular challenges as well as all other types of potential employee discrimination. Collective agreements are universally applied within the company with no discrimination among employees and regardless their trade union membership status. However, with the growing needs for nursing care both in institutions and households and shrinking number of employees, some private nursing care providers opted for employment of foreign workers. In such cases, the Law on employment of foreigners⁷ applies specifying both their individual and collective labor rights. While cases of violation of foreign workers rights become more evident within increasing number of foreign employees, it is still not particularly evident in regard to residential care activities.

In sum, the main challenges to collective bargaining in private residential care activities include the following: 1) unionization of workers is extremely low, 2) trade unions are fragmented, 3) if existing trade unions typically do not have mandate to negotiate (they are not representative), 4) employers are not interested in collective bargaining, 5) collective bargaining is not recognized as an important regulatory mechanism and protection of workers' basic rights the emphasis is expected to be guaranteed by the Labor Code.

Finally, household care providers (engaged by the employment agencies as well as directly by households as employers) represent another group of workers excluded from any collective bargaining. In 2011, ILO issued Domestic Workers Convention (C189)⁸ to prompt governments in further recognition and protection of rights and assuring decent working conditions for employees working in households. However, Serbia has not ratified C189 as yet. Moreover, domestic work (including social care providers in households) has not been given proper attention. Research and reports as well as public debates on the topic are scarce. Available data show that almost 50% of household workers are not registered, i.e. they are informally employed based on personal agreement between a household and a worker, mostly referring to care providers to elderly and small children (baby-sitting)⁹. As domestic work remains under-regulated, potentials for organization of workers and households to initiate collective bargaining are also minimal.

Labor market deregulation opened space for establishment of private employment companies who place their employees to work in other companies in need for additional staff in various occasions. Thus such agencies offer nursing care services of their trained employees who provide their services in single households. While there are no legal obstacles for these employees to establish their trade unions and initiate collective bargaining it doesn't happen in local practice. Not only the low

⁷ Law on Employment of Foreign Citizens (Official Gazette of the Republic of Serbia, No 62/2023)

⁸ C189 - Domestic Workers Convention, 2011 (No. 189), available at:

https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189

⁹ Position and Challenges of Women Workers in Cleaning and Care Services in Serbia - Rapid Assessment (SECONS), 2024, available at:

<https://drive.google.com/file/d/1cKx3dJllarYblsVx1p1SShfdcpKWLJb7/view>

interest in unionization but also the fact that the employees might not know each other, their employment contracts may be short, etc. keeps them away from any attempts toward collective bargaining. Moreover, employers are particularly not supportive and not interested in collective bargaining. Contrary to it, nursing care providers in households as employers are not considered employees in accordance with the Law and therefore can't be unionized or participate in collective bargaining.

Thus, recruitment of new members as well as training and education of leaders and negotiators, along with integrity development are absolutely the most important tools for coping with challenges in collective bargaining.

IV. Towards Smart Bargaining

To be considered "smart" collective bargaining in social care sector needs to be sustainable. Further, it assumes good preparation of negotiating team on micro-level (i.e. company level), development of teams and team works, assigning negotiation roles among team members and continual development of their negotiating skills. In line with it, effective time management throughout bargaining process is crucial. To assure time efficiency and effective decision making, good preparation is also of utmost importance. It should include brainstorming sessions, pre-analyses of important topics to be included in collective bargaining, strategy and tactic development as well as defining initial proposals and ways of approaching the other party and coping with challenges. Simulations as well as pre-negotiation sessions to define agenda, time management and assure equal positions between the two parties are sine qua non in smart bargaining. Examples of collective bargaining in social care sector show that:

"It often happens that we meet the other party who is represented by negotiations not authorized to make decisions and sign agreements"¹⁰

Smart bargaining must assume equal positions of the two parties and delegated authority of all participating negotiators to sign an agreement. Therefore, smart bargaining is bargaining between competent negotiators aware of their negotiation power and equal roles in overall process, empowered by the parties they represent to make mutually acceptable agreement in the interest of both employees and employer.

For smart bargaining, improvement of trust between the bargaining parties remains crucial. Existing trade unions need to enlarge their membership by developing trust among younger generation of employees. Particularly, tradition in workers unionization should be further promoted among younger workers. Their potentials and capacities to protect collective rights need to be strengthened, to assure continual provision of improved working conditions and enhance job security in light of technological as well as wider social and economic changes. In line with that actual collective agreements need to be reconsidered for improvement of content.

¹⁰ Statement from a partner interviewed in person for the purposes of BARSERVICE Project



Smart collective bargaining leads to better agreements, assuring trust between the parties and making the most effective regulation of working conditions.

Further enlargement of bargaining coverage is mainly dependent on acceptance of smart bargaining approach as well as further empowerment of current trade unions, promotion of new membership and improvement of their internal organization. Equally important is further promotion of negotiation practice especially among employers. Both company and sectoral level bargaining is strongly dependent on establishment of new employer associations who would be interested in collective bargaining. Finally, mobilizing various social actors to advocate that negotiations is the best way of conflict resolution leading toward achievement of mutually beneficial agreements could also potentially lead to further promotion of collective bargaining culture and application of smart bargaining approach.

V. European Perspectives

Being a candidate country in the accession process to the EU, Serbia has adjusted its regulatory and strategic documents in line with EU directives, documents and well developed practices. In line with it, trade unions and their representatives take part in various EU initiatives, projects as well as dialogues organized among various social partners. Exchange of information and counseling in regard to important initiatives are crucial for empowerment of trade unions in initiating and taking part in wider social dialogue.

In regard to minimal wage, social dialogue is held annually on national level. Strong connection with EU social partner has improved negotiating power of the local trade union particularly in regard to bargaining process in public sector, including social care.

The most relevant support comes through EU projects, mutual learning and collaboration with the EU social partners. Not only the improvement of knowledge and skills but also soft pressure toward governmental bodies enhances the position of trade unions in bargaining process which may indirectly also support bargaining coverage.

VI. Conclusions

Social care sector is partially covered by collective bargaining in Serbia. While sectoral CBA is universally applied in public sector, company level agreements are almost non-existent. On the other hand workers in private companies offering residential care services (i.e. approximately one half of all employees in this sub-sector) are not covered by CBAs (either on sector or company level). The same applies to household care providers either being employed by employment agencies or directly by households.

Negative demographic trends and aging population increase the demand for social care services. Yet, the lack of professional staff remains among the most important constraints not only for further enlargement of nursing care provision but also retaining current capacities and service quality. In line with that, extensive implementation of (smart) collective bargaining as well as improvement of bargaining process and content stands is seen as one of the main prerequisites for coping with the demographic and labor market challenges.

In further development of smart bargaining approach it is believed that the most relevant collective bargaining should be company level. Namely, company level bargaining more directly involves company employees in finding ways of protection of their collective rights more specifically related with their own working environment and work requirements.

Another problem stems from decreasing interest in unionization, particularly among younger workers. Decreasing interest in unionization as well as further development of negotiation skills and networking may negatively affect the trade union bargaining power unless these unfavorable trends are changed in near future.

Further enlargement of bargaining coverage is mainly dependent on acceptance of smart bargaining approach as well as further empowerment of current trade unions, promotion of new membership especially among young workers and improvement of their internal organization. For smart bargaining, improvement of trust between the bargaining parties remains crucial. Tradition in workers unionization should be further promoted among younger workers. Their potentials and capacities to protect collective rights need to be strengthened, to assure continual provision of improved working conditions and enhance job security in light of technological as well as wider social and economic changes. In line with that actual collective agreements need to be reconsidered for improvement of content. Smart collective bargaining leads to better agreements, assures trust between the parties and most effective regulation of working conditions.

References

The Law on Social Care, Official Gazette RS, No.24/2011; 117/2022 Labor Code, " Official Gazette of the Republic of Serbia No. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014,13/2017-Decision of the CC, 113/2017 and 95/2018 - authentic interpretation:

<https://www.021.rs/story/Info/Srbija/337997/Domovi-za-stare-u-Srbiji-Liste-cekanja-u-drzavnim-dok-u-privatnim-ima-dovoljno-mesta.html>

<https://www.danas.rs/vesti/drustvo/plata-negovateljica-u-srbiji-nemacka/>

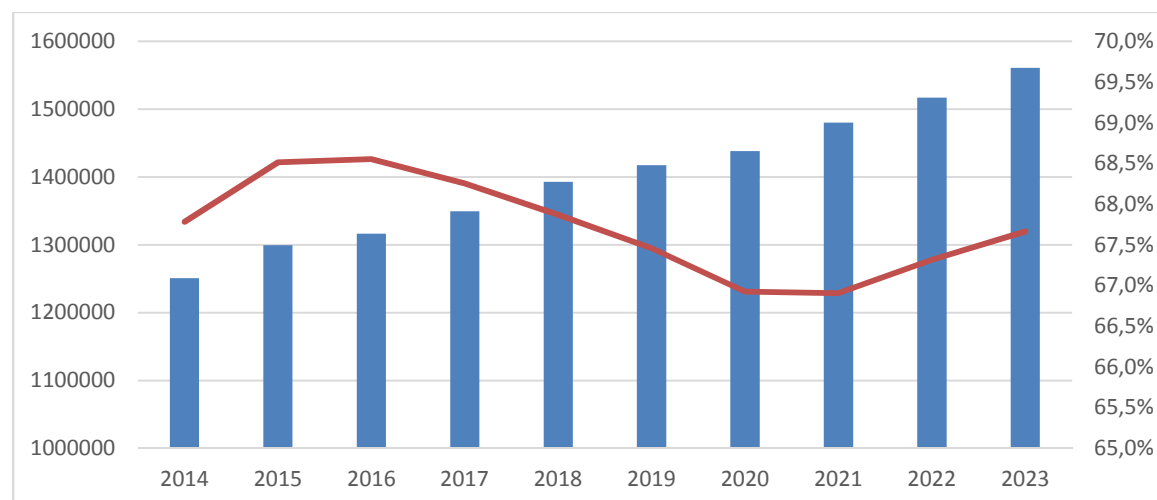
Law on Employment of Foreign Citizens (Official Gazette of the Republic of Serbia, No 62/2023)

C189 - Domestic Workers Convention, 2011 (No. 189), available at: https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189

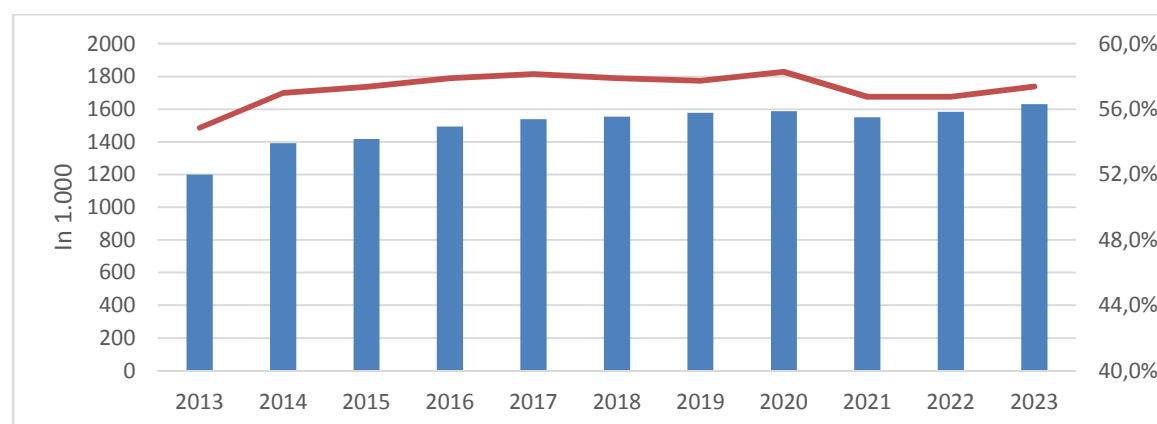
Position and Challenges of Women Workers in Cleaning and Care Services in Serbia - Rapid Assessment (SECONS), 2024, available at: <https://drive.google.com/file/d/1cKx3dJIarYblsVx1p1SShfdcpKWLJb7/view>

Annex

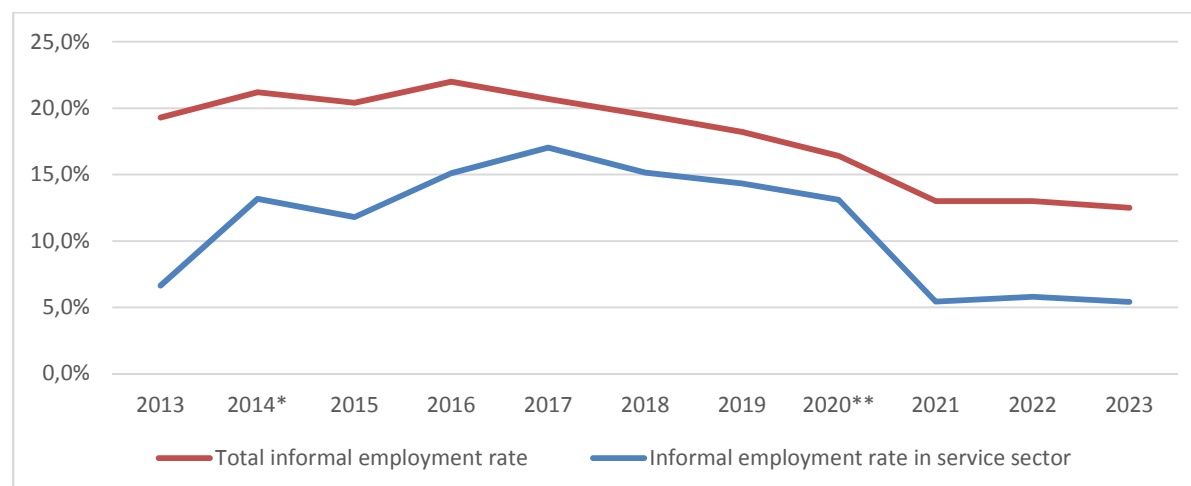
Graph 1: Employment (left) and Share of employment (right) in Services (CROSO, 15+)



Graph 2: Employment (left) and Share of employment (right) in Services (LFS, 15-64)



Graph 3: Informal employment rate for economy and for Service sector



* ** Change in methodology