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# INTRODUCTION

Slovenia began its transition from socialism to capitalism while still part of Yugoslavia in the late eighties and accelerated the process after the secession in the early nineties. Some of the building blocks for a relatively successful transition (at least in macroeconomic terms) were part of the legacy from the Yugoslav self-management system (cf. Mencinger, 2002: 397). Of no less importance for its specific path was the balance of forces in the Slovenian society. Namely, the emerging national bourgeoisie consisting mostly of directors of the self-managed enterprises (aspiring to become owners of the firms they managed) found an ally in the working class that was mobilised by the recently pluralized trade unions competing for membership (Crowley & Stanojević, 2011; Bembič, 2013). One of the most notable results of this alliance was privatisation process which favoured insiders (workers and managers) that became owners of mainly labour-intensive companies (Mencinger, 2006; Prašnikar & Domadenik, 2004). The balance of class forces was also clearly visible in the adopted macroeconomic policies: while foreign advisors and some domestic economists suggested that fixed exchange rate would be most suitable for stabilising the economy, the Slovene authorities opted for a managed exchange in order to enhance the competitiveness of the export sector – the most propulsive sector of the economy – without the need for openly confronting the working class organised by the trade union movement (Bembič, 2013). Finally, due to their mobilising power trade unions were accepted as legitimate social partners while the class compromise became institutionalised in the system of industrial relations, especially with the establishment of Economic and Social Council, within which economic policies (the most important being the income policy) and other issues were negotiated and political exchanges were made between employers, trade unions and the government (Stanojević & Krašovec, 2005; Crowley & Stanojević, 2011). Thus, during the first decade of transition, Slovenia developed into a sort of coordinated market economy (Hall & Soskice, 2003) with relatively good macroeconomic performance (fiscal deficits were not excessive, current account was balanced, GDP growth (averaged) around 4 percent annually and unemployment rates were decreasing), a centralised collective bargaining system with an almost 100% coverage rate and a relatively generous welfare state.

This system proved quite resilient in face of shocks that started to occur approximately a decade ago, when Slovenia joined EU and basically fulfilled all conditions concerning the euro adoption. From that point on social and political conflicts escalated in Slovenia. Successive attempts of various governments to enforce unilateral decisions – the first and major one was the bid for a flat tax rate by the centre-right government in 2005 – were opposed and quite frequently brought down by the massive demonstrations and referendums organised by unions. Union density that was relatively high (around 40%) until 2003 (cf. Stanojević, 2015) dropped thereafter but the trade union movement, nonetheless, retained its mobilising strength. This was made painfully clear to the centre-left government in 2011 when it tried to unilaterally impose reforms concerning the pension system, mini-jobs and the informal economy. After the fall of the government following the referendum fiasco, interest rates on government bonds skyrocketed and by January of 2012 all the major rating agencies downgraded credit ratings of Slovenian sovereign. The new centre-right government did resume the social dialogue but using the ill-famed Troika as a threat it was

able to extract heavy concessions from the trade unions (Stanojević & Klarič, 2013; Bembič, 2013).

The trends leading to dualisation of the labour market emerged in the early nineties as the redistribution of employment from the incorporated to the non-incorporated sector pushed many workers to a less formalised working environment, such as self-employment (Vodopivec, 2004). Further, with growing demands for international competitiveness during the process of EU accession the pressures were mounting and competitiveness and wage levels in a large part of companies could be maintained only by resorting to labour intensification and flexibilisation of work which increased the penetration of atypical forms of employment such as fixed-term and part-time jobs, student work and self-employment (Stanojević, 2010; Ignjatović, 2010).

With the crisis the situation on the labour market worsened but its impact was unevenly spread as some parts of the labour force suffered heavier blows than others. Expectedly, those in atypical forms of employment, such as those on fix-term contracts, were the first to loose their jobs. As these forms of employment are widespread among the young it was this group that was most badly hit. At a more general level, one can observe that the reduction of the aggregate level of employment was stronger in the private sector while austerity measures in the public sector focused more on wage cuts. Looking at a more disaggregate level, the strongest declines in employment were observed in the construction sector and in manufacturing which in turn means that employment rates decreased more for male population and among those with lower educational levels (UMAR, 2014).

There were some important changes in legislation with respect to precarious work during the crisis. With the aim of job preservation the government intervened in 2009 with two laws, the *Partially subsidizing of full-time work Act (ZDSPDČ)* and the *Partial Reimbursement of Payment Compensation Act (ZDPNP)* with the effect of mitigating the fall of employment. In 2010, the *Minimum Wage Act (ZMinP)* that brought a sharp increase in minimum wage (by almost 23%) was adopted. It brought the ratio between the minimal wage and average monthly earnings to one of the highest in the EU (EUROSTAT). The *Labour Market Regulation Act (ZUTD)* which made some changes in regulation of unemployment benefits was passed in 2010. The amendments to this law in 2013 (*ZUTD-A*) instituted a new form of atypical work, the temporary or occasional work of retirees. The *Fiscal Balance Act (ZUJF)* that prescribed the austerity measures was adopted in 2012. Its amendment from 2014 (*ZUJF-C*) re-regulated student work. There was also a pension reform in 2012 with the *Pension and Disability Insurance Act (ZPIZ-2)* which tightened retirement conditions by extending the retirement age to 65 for men and women or, alternatively, 40 years of pensionable service. As regards precarious work, it re-regulated the contracts for a copyrighted work by adding some contributions to social security. The single most important piece of legislation which brought many changes (see below) was the new *Employment Relationship Act (ZDR-1)* from 2013. Finally, the *Prevention of Undeclared Work and Employment Act (ZPDZC-1)* from 2014 also instituted a new atypical form of employment, the so called personal supplementary work.

Kalleberg's (2011; 2009) approach to precariousness takes job insecurity as the key dimension of precarious employment relations while posing earnings, benefits, etc., as

distinct dimensions of job quality. For the needs of the present report, however, we adopt Keller & Seifert's (2013) approach and inspect several dimensions of job quality, such as wages, working time, job security, social security, the strength of voice, etc. in order to assess the precariousness of particular work arrangements. Now, precariousness can in principle be assessed on the level of employment relations, that is, individual relations between workers and their employers (Kalleberg, 2011: 82), while the actions addressing the social problem of precarious work have to assume a collective nature. Thus, we also look at the actions of social partners in addressing the problem of precarious work in Slovenia.

The report is structured as follows. The first part offers a short outline of recent legal developments and trends in atypical work arrangements. By focusing on five sectors (metal, health care, retail, construction and temporary agency work), the second part provides a more detailed picture of the incidence of precarious work linked to specific work arrangements which are dominant in respective sectors as well as an analysis social partner's actions in addressing the problem of precarious work. The third part concludes with a comparison of precarious work incidence and social partner's responses in the five sectors.

This report is result of field work and analysis conducted by the following researchers: Branko Bembič (Introduction and General overview of legal developments and trends in precarious work), Miroslav Stanojević (Metal and electrical industry), Majda Hrženjak (Health care), Branko Bembič (Retail sector), Miroljub Ignjatovič (Construction), Maja Breznik (Temporary agency work) and Miroslav Stanojević and Branko Bembič (Conclusion).

## **GENERAL OVERVIEW OF LEGAL DEVELOPMENTS AND TRENDS IN PRECARIOUS WORK**

In Slovenia, issues pertaining to work and employment are regulated by many laws and collective agreements, the most important being the *Employment Relations Act (ZDR)*, a systemic law which was first passed in 2002, amended in 2007 and replaced by a new *Employment Relations Act (ZDR-1)* in 2013. In contrast, there is no systemic law pertaining to social rights which are in turn regulated by laws dealing with specific fields of social security system (Rajgelj, 2015). This part of report reviews some of the most important changes in the Slovenian labour law related to atypical work arrangements and offers a brief account of trends related to these arrangements since 2008.

## Legal developments in main forms of precarious employment since 2008 and trends

### Regular employment

The so-called regular employment is an open ended full-time employment relationship (LC)<sup>1</sup> which according to *ZDR-1* forms the basis for employment relation. A contract of employment provides the worker with a full range of labour as well as social rights and guarantees a relatively high degree of protection against dismissal (Rajgelj, 2015).

Since 2008, the most important changes in the legislation regulating standard employment were made in 2012, with the *Public Finance Balance Act (ZUJF)*, and in 2013, with the *Employment Relations Act (ZDR-1)*. Thus, unemployment benefits were lowered for those receiving them longer than 12 months in 2012 (*ZUJF*), while in 2013 (*ZDR-1*) the period of notice for open ended contracts was shortened and the dismissal procedures were relaxed. On top of that, the period of notice for the shortest and longest tenured employees was shortened while they were extended for those with 2-4 and 9-14 years of tenure. Finally, the severance pay was reduced for some groups of regular employees (i.e. for those with 5-10 and 15-20 years with the same employer). The declared aims of labour law reform in 2013 were to increase the flexibility of labour market but also to reduce segmentation. We will return to the latter in the next section that deals with fix-term work. As regards the former, however, the changes significantly reduced the value of EPL index for individual dismissal of workers with regular employment from 2.98 to 1.99 (Kajzer, 2013).

### Fixed term employment contracts

From the legal point of view, fixed term contract (LC) is an atypical form of employment although it became very widespread as it offers more flexibility to the employers. In fact, although the law (first *ZDR* and now *ZDR-1*) limits such contracts to specific situations (i.e. when due to its specific nature work is limited to a given period of time, in case of a replacement for a temporary absent permanent worker, project work or seasonal work, etc.) a great bulk of vacancies advertised (some 80% according to ZRSZ data) offer only a fixed term employment contract. The reverse side of this flexibility is, of course, a higher level of job insecurity for the worker with such a working arrangement. Except for some rights related to the termination of employment contract, workers on fixed term employment contract formally enjoy the same rights as regular workers. Nevertheless, as the level and/or duration of many rights that derive from employment – for example the level and duration of employment benefits, old age pensions, etc. – increase with the duration of employment, workers on fixed term employment contract are in a disadvantaged position vis-à-vis regular employees (Rajgelj, 2015).

Recently there were many changes in labour law with impact on working conditions of workers in fixed term employment. Changes regarding the level and accessibility of unemployment benefits for fixed term workers underwent several changes since the outbreak of crisis. Thus, the *Act Regulating the Labour Market (ZUTD)* which was passed in

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<sup>1</sup> In this report we use LC as an abbreviation indicating work arrangements based on “labour code” and “non-LC” for those which are not.

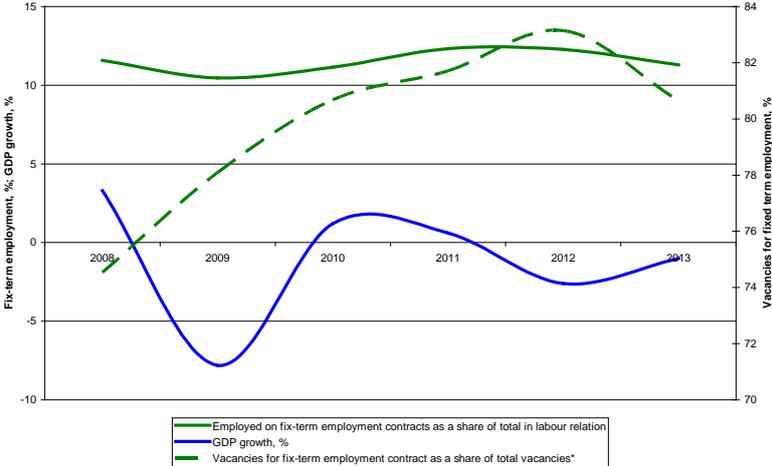
2010 and enacted in 2011 eased the access to unemployment benefits for those working on fixed term employment contracts by lowering the minimum period of employment for the entitlement to unemployment benefits. In addition, *ZUTD* increased the level of unemployment benefits for the first three months of unemployment period. With amendments to the same law (*ZUTD-A*), in 2013, the minimum period for entitlement to unemployment insurance was further lowered to 6 months of insurance in past 24 months for those younger than 30 years. The most important changes aiming at the reduction of segmentation of the labour market were made by *ZDR-1*. The law introduced severance pay for workers on fixed term employment contracts (1/5 of average monthly wage). Further, the law forbade the employers to offer successive fixed term contracts for a *given job* (and not worker) for a period longer than two years. Finally, employers offering open ended contracts are now exempted from paying their share of unemployment contributions for the first 2 years of the duration of open ended contracts, while in case of fixed term contract the employer contributions to unemployment insurance is stipulated at five times the normal amount (*idem*; Kajzer, 2013).

It is probably too early to determine whether the labour reform of 2013 has achieved its declared objective of lowering the labour market segmentation. Some preliminary analyses were, however, made by government's *Institute of Macroeconomic Analysis and Development* (UMAR). The results show that the reform has had a mixed success. True, the number of regular new jobs (i.e. open ended employment contracts) increased faster than the number of fixed term jobs and the share of regular new jobs in the total number of new jobs increased. Still, the great majority of new jobs remains fixed term, the share of this category being 71.8% in the year following the reform (75.6% in the year preceding the reform). What is worst, in the year after the reform the share of workers working on (both fixed term and open ended) employment contracts in total employment decreased faster than in the year prior to reform, while the share of self-employed and some other forms of work arrangements increased quite sharply. This could be, however, either the effect of re-regulation of fixed term employment or financial incentives for self-employment (UMAR, 2014). Overall, although the reform may have slowed down somehow the increase of fixed term contracts of employment both in absolute as well as relative terms, it surely did not reverse this trend and neither did it arrest the drift towards precarisation in its various forms. Finally, it is quite certain that the labour reform was at least in some part shaped by neoliberal ideology of flexible labour markets, given that the protection of regular employment, as we have seen, substantially decreased. There was, nevertheless, also a shift in favour of stronger protection of workers with fixed term employment contracts. In the Slovenian context where trade unions retained much of their mobilisation power despite a sharp decrease in union density such a balance between conflicting demands points to the role of the tripartite dialogue.

Taking into account a somewhat longer perspective, the evolution of the share of workers on fixed term employment contracts (see figure 1) in the total number of employees in labour relation (i.e. workers on open ended employment contracts plus workers on fixed term employment contracts) follows a more or less predictable path as it decreased immediately after the outbreak of crisis but started to increase again in 2010 when the economy showed signs of a weak recovery. With the economy plunging into another recession in 2012, the share of workers on fixed term employment contracts declined again.

The relative share of vacancies for fixed term employment was, however, increasing throughout the observed period with the exception of the last observation in 2013. The observed decline in 2013 could be attributable either to a break in time series which occurred in that year or, alternatively, to genuine decrease in the relative share of vacancies for fixed term work caused by the reform as explained above. As regards the absolute amounts (not shown in the figure 1), both the number of regular workers as well as workers on fixed term employment contracts decreased in every single year after 2008 except in 2012 when the total number increased marginally due to a small increase in regular jobs, and in 2010 when the number of workers on fixed term contracts increased slightly (SURS).

**Figure 1: Workers on fixed term employment contracts**



Sources: EUROSTAT, SURS, ZRSZ  
 \* Break in time series on vacancies in 2013.

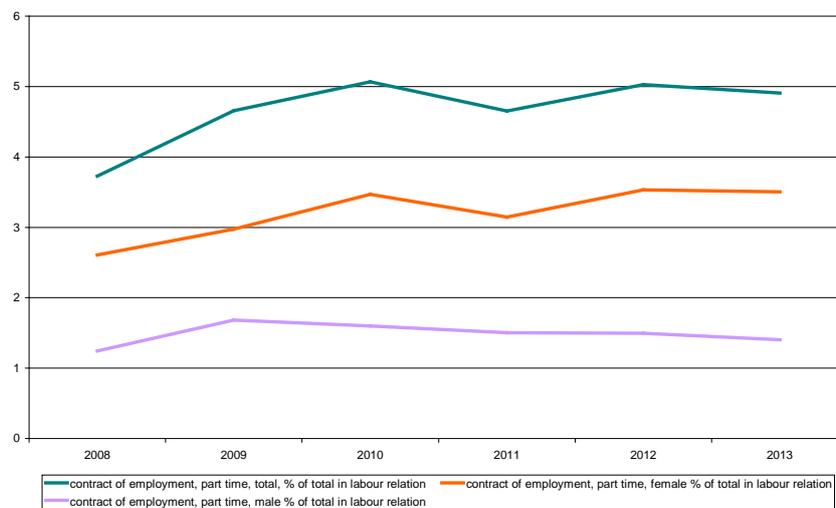
**Part time employment contract**

Part time employment contract (LC) is legally a modality of the regular (full time) employment contract as it differs from the latter only with respect to the working time. According to the labour law, there are two types of the part time employment contract: a part time employment contract which is due to the will of the contracting parties and a part time employment contract on the basis of the law. The latter applies when certain conditions are fulfilled, giving the worker, for example a parent of young children, a legal right to demand a shorter working time from her (or his) employer. As regards job security, a worker on a part time employment contract enjoys the same protection as a regular worker. Also, a part time employment contract guarantees the worker the same rights and also duties (regarding the latter some exceptions apply in case of part time employment contract on the basis of the law) in relation to employer as a regular contract (except for paid holidays), although they are proportional to the working time. The most important difference between a part time employment contract due to the will of the contracting parties and the one based in law relates to the social rights. In the former case, social security contributions and thus rights are proportional to the contracted working time (some exceptions apply), while in the latter case the state covers the difference in contributions for social insurance between full time and hours actually worked. In this respect, a worker on part time employment contract faces the problem of not reaching the full period of pensionable service required for old age pension, as part time employment counts only

proportionally to the contracted working time (e.g. working only 20 hours a week for 2 years counts as 1 year of pension period) (Rajgelj, 2015).

Apart from the *Act on Partial Subsidising of Full-Time Work (ZDSPDČ)* from 2009, which introduced subsidies for firms that shortened working hours without layoffs and reductions in salaries at the time of a sharp decline in aggregate demand, there were no major changes in legal regulation of part time employment contracts during the crisis. Thus, stimulated by the *ZDSPDČ* and falling demand, the firms in the private sector responded to the crisis at first by reducing the hours worked (UMAR, 2014; Kajzer, 2013; Perko et al., 2014). The number of workers in labour relation working shorter hours increased accordingly as well as their share in total employees in labour relation (see figure 2), albeit from a relatively low level.

**Figure 2: Workers on part time employment contracts**



Source: SURS

As can be glanced from Figure 2, the share of women working on part time employment contracts in the total number of employees in labour relation is approximately twice as large as the share of men, although the overall number of women in labour relation is lower than that of men. Further, the share of women increased and, as it seems, reached a new plateau, while the share of men levelled off after the subsidies for a shorter workday introduced by *ZDSPDČ* were phased out. It seems, thus, that there are different forces at work behind the evolution of respective shares of part time jobs for females and males, one of the causes for the increasing share of the former being perhaps the progressive introduction of part time jobs in industries where female labour force predominates, such as retail trade, where during the crisis significant inroads in terms of market share were made by discounters who offer almost exclusively part time employment contracts.

### Student work

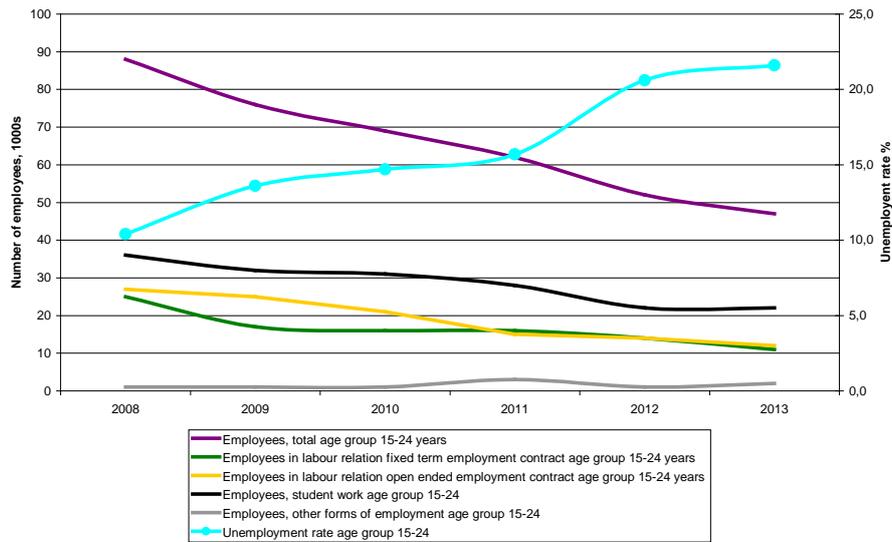
The share of part time jobs in Slovenia is relatively low (some 9% of labour force in the age group 15 to 64 in 2013 according to EUROSTAT). An even lower share of part time jobs is observed in the category of all employees in labour relation (see previous section). However, the share of part time jobs is higher in the age group 15 to 24. Moreover, the incidence of temporary employment is also much higher in this age group – as a matter of fact, Slovenia

has the largest share of temporary employment in this age group in the whole EU (over 73% in 2013 according to EUROSTAT data). The large majority of youth in temporary employment is, nevertheless, not employed on fixed term employment contracts (according to SURS data these account for only between one fourth and one fifth of all temporary jobs in the age group 15 to 24) but work as students, accounting for some 63% of the total temporary employment in this age group.

Student work (non-LC) is probably the most flexible working arrangement on the Slovenian labour market, formally accessible only to those enrolled in schools and universities. Due to its favourable tax treatment and extremely high flexibility, student work became very popular in the years of transition. Legally it is akin to a civil contract between the employer and the student while involving a third party in the transaction, the so-called student service which performs the role of an intermediary. Only minimal protection of labour rights (i.e. the provisions in *ZDR-1* on “the prohibition of discrimination, equal treatment with regard to sex, working time, breaks and rest periods, special protection of workers under the age of 18, and liability for damages”) applies in case of student work. The law provides for no job security whatsoever, which is why this type of work arrangement is considered the most flexible (Rajgelj, 2015). Not surprisingly, the analysis show that work performed as student work mostly consists of manual and low skilled tasks (UMAR, 2014). Finally, the legal form of student work is sometimes illegally used to conceal other forms of work; unions report that even 50 years old workers work (on behalf of their children or grandchildren) in this arrangement when they find no other option for paid employment (Rajgelj, 2015; Interview with trade union official, 2014).

There were a few changes in the regulation of student work since 2008. The concession fee was increased from 12% to 23% in 2012 (*ZUJF*) (MDDSZ, s.d.). Further, from 2015 (*ZUJF-C*) there is a minimum hourly rate stipulated by the law (4.5 €), which is tied to the growth of average wage. In addition, *ZUJF-C* which entered into force on the 1<sup>st</sup> of February 2015, prescribed for mandatory pension contributions and disability insurance for student work, thus, on the one hand, integrating it to some extent into the social protection system and, on the other hand, increasing the tax wedge on this particular work arrangement which will, however, remain one of the most flexible forms of employment. In sum, when the student gets, say, a gross amount of 100 € out of which 15.50 € have to be deducted for mandatory pension and disability insurance contributions, all additional fees and contributions associated with student work that burden the employer amount to 33.74 €. Applying all the tax allowances provided by the law, a student can earn up to 10.000 € a year without paying any income tax (idem; MDDSZ, s.d.).

**Figure 3: Student work and youth unemployment**



Sources: SURS, EUROSTAT

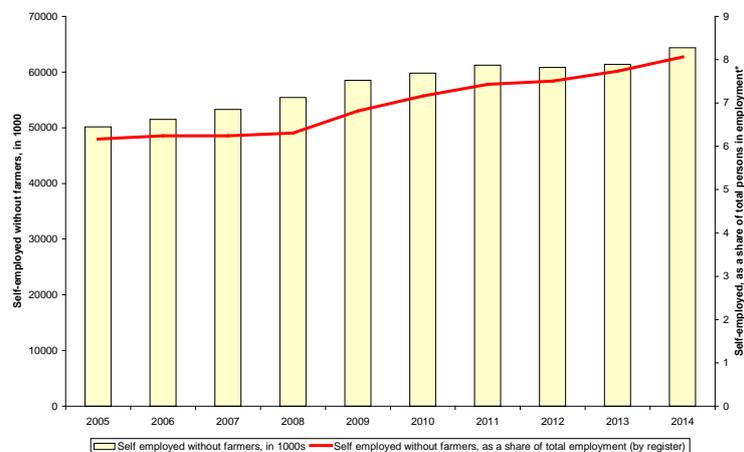
Figure 3 reveals the impact of the crisis on youth employment. First, the unemployment rate among the age group 15 to 24 years more than doubled. Second, each of the three main groups of employees in this age group (i.e. regular, fixed term and students) recorded a similar drop in absolute numbers (approximately 15.000 in each group), albeit from quite different levels. That is to say, the share of student work in total paid employment of this age group – which was already the largest one in 2008 – increased in proportion to other two groups, which in turn means that this already flexible age group was further flexibilised during the observed period. In other words, the youths were doubly precarised after the outbreak of crisis: firstly, by the increased share of the most flexible working arrangement, the student work, and, secondly, by a surge in unemployment which is the ultimate form of precariousness, as Kalleberg (2009) aptly remarks.

### Self-employment

Another (potentially) precarious group are the self-employed (non-LC). Namely, although in its legal form self-employment is intended for the conduct of entrepreneurial activity, it is often used as a way of masking dependent employment in an entrepreneurial legal form in order to evade the labour rights associated with a regular employment contract and gain on flexibility. In case a (self-employed) worker works for a single employer, according to employer’s instructions and supervision and is integrated in the working process, the legal form of self-employment is considered fictitious and the self-employed worker is deemed an employee under the law. The labour reform of 2013 (*ZDR-1*) introduced, however, another legal category in between of the two, the so-called economic dependant which applies to a self-employed person who does not employ any workers herself and who for a longer period of time performs work in person, independently and for a remuneration under a civil law contract in circumstances of economic dependency defined as 80% or more of annual income received from the same contracting party. In case of economic dependants, a restricted labour law protection applies, such as prohibition of discrimination, minimum notice periods, prohibition of cancellation of a contract for unfounded reasons and “assurance of payment for contractually agreed work appropriate for the type, scope and

quality of the undertaken work, taking into consideration the collective agreement and the general acts binding the contracting authority and the obligation of payment of taxes and contributions” (ZDR-1, articles 213 and 214; Rajgelj, 2015; MDDSZ, 2014). In other words, the law provides for minimum job security and income level comparable to employees performing similar work in similar conditions, but not also for the rights associated with working time, paid holidays, sick leave, etc. B bogus self-employed persons, economic dependants and proper sole proprietors all pay their own social security contributions which in principle provide for the same level of social rights, but in fact they are disadvantaged vis-à-vis an employees in terms of rights derived from health insurance as they themselves bear the risks associated with loss of income due to sickness and injuries for the first month of sick leave (Rajgelj, 2015).

**Figure 4: Self-employed – absolute numbers and relative share in total employment**



Source: SURS

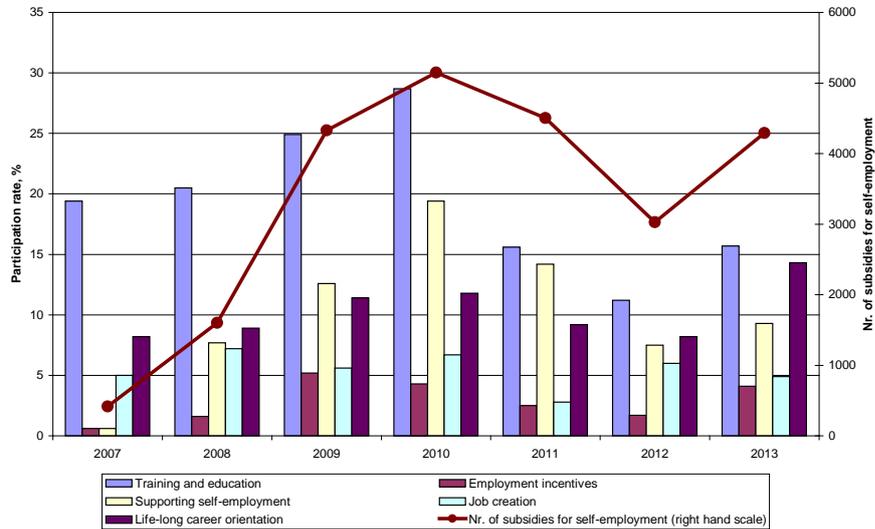
\* Persons in employment according to the register. Register data cover only employees with an employment contract, the self-employed and the unemployed registered at the Employment service of Slovenia.

To our knowledge, there are no reliable data on bogus self-employed persons or on economic dependants. Data on self-employment are, however, easily available and the trend of growth of this category of workers is quite telling. Namely, in contrast to total employment (i.e. paid employment plus self-employment) as well as all of its major components, self-employment increased not only in share but also in absolute number. Moreover, as figure 4 makes perfectly clear, the relative share of self-employment (depicted by the red line in figure 4) started to increase precisely after the outbreak of the crisis in 2008.

One does not need to overstretch her imagination in order to say that self-employment provided an escape route – though a highly dubious one – to many workers who lost their jobs or struggled to get a first one on a depressed labour market. Bogus or not, for many of those entering this form of employment the decision had probably less to do with entrepreneurial wit than with a sheer compulsion of economic forces operating in a capitalist society. To be sure, the state, or more precisely, the Employment service of Slovenia (ZRSZ) went to great lengths to facilitate these transitions from unemployment into self-employment. Thus, the total number of subsidies for the unemployed (and those whose

jobs were under threat) becoming self-employed rose from a mere 417 in 2007 to 5148 at its peak in 2010 which makes for an almost tenfold increase (see figure 5).

**Figure 5: Self-employment as an AEP tool**



Source: UMAR (2014); ZRSZ

UMAR's (2014) calculations of participation rate of the unemployed in the programmes of active employment policy (i.e. the ratio of unemployed persons participating in a given AEP programme to the total number of persons registered as unemployed) provides a hint about the increased prominence of measures aimed at the promotion of self-employment as a way to reduce unemployment. As figure 5 shows, measures for boosting self-employment that were more or less marginal in 2007 became one of the most important AEP tools and were, if their standing is gauged by the rate of participation of the unemployed, second only to measures for education and training in the period from 2009 to 2011. This practice was heavily protested by trade unions claiming that the state was only seemingly solving the problem of unemployment while actually promoting a precarious form of work (Skledar, 2012; ZSSS, 2011).

### Temporary agency work

We will present here only some contours of the legal framework regulating the temporary agency work (LC) as the TAW sector is one of the five sectors analysed in the next part of this report. Agencies for temporary work have been allowed to operate on the Slovenian labour market since 1998. TAW is performed under special employment contract between the worker and the agency which provides work to another company (the so-called user company). The user firms take advantage of this employment arrangement to gain on external numerical flexibility, some obligations associated to labour law and the costs of recruiting workers. The labour code prohibits the use of TAW for the replacement of striking workers in cases when the user firm has laid off a large number of its own employees in the preceding 12 months, or to fill work positions exposed to certain dangers and risks. In 2013, ZDR-1 introduced quotas (max 25% of user firm's workforce) for the use of TAW, which, nevertheless, do not apply for TAW workers on open ended contracts of employment.

Agencies must register with the Ministry of Labour, Family, Social Affairs and Equal Opportunities but have to meet certain conditions in order to do so. The law stipulates for an open ended contract of employment between the agency and the worker except when the legal conditions for a fixed term contract at the user firm are fulfilled. When the agency fails to assure work to the worker, the latter is entitled to a wage compensation which cannot be lower than 70% of minimum wage. An agency worker is entitled to a wage according to the going rate as well as other benefits enjoyed by workers directly employed with the user firm. Nonetheless, as the duration of employment with an agency is normally shorter than regular employment, the TAW workers face the same difficulties in respect to the social rights as workers on fixed term contracts (Rajgelj, 2015).

There were no reliable data on the overall level of TAW accessible at the time of this report. However, total number of employees working in the group N78 (NACE rev. 2) which comprises mainly though not exclusively temporary agency work was in the neighbourhood of 13.000 according to the most recent data made available by SURS (August 2015), which makes for less than 2% of all the employees according to the register data.<sup>2</sup> This number was reached only after the government took a more restrictive approach towards agencies. The number of TAW employees according to the register doubled in the 2013–2014 period which was, however, almost exclusively due to the increase in government's rigorousness in demanding registration from the agencies. This, in turn, is the reason that there are no reliable data to construct time series showing the evolution of the trend of this form of employment from this source. There is, nonetheless, another source of data on TAW which is provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities and is compiled from the data provided by the agencies in their yearly reports. The Association of Temporary Work Agencies questions the reliability of this source, claiming that it overestimates the number of agency workers by including employees which are not in fact temporary agency workers.

## Actions of social partners addressing the problem of precarious work

### The problems of precarious work in collective bargaining

Virtually every law that brought changes to the legal regulation of precarious work we encountered in the above analysis was an outcome of tripartite social dialogue – those that the government tried to push through unilaterally were mostly turned down in referendums. Thus, the 2013 labour market reform (*ZDR-1* and *ZUTD-A*) which instituted severance pay for temporary employment contracts, economic dependants, quotas on TAW, prohibition of successive fixed term contracts for a given job for a period longer than two years, financial incentives and disincentives for stimulating the transition from fixed term to open ended employment contracts and more accessible unemployment benefits to those on temporary employment contracts, was the outcome of an exhausting bargaining process (Dnevnik, 2013). Moreover, as improving the position of those in atypical work arrangements was paralleled by flexibilisation of regular contracts, it is quite clear that the bargaining process

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<sup>2</sup> Please note that in the category of paid employment the register data cover only those employed with a contract of employment.

involved balancing of interests of both groups of workers. Even *ZUJF* that legislated a range of austerity measures was approved by trade unions after long negotiations (Stanojević & Klarič, 2013), although it has to be added that the agreement was signed under the threat of bringing Troika in charge of the country. The amendments to this law (*ZUJF-C*) that re-regulated the student work were debated in the Economic and Social Council but the final touch regarding this particular matter was provided by the agreement between the government and the *Slovenian Student Union* (2014). *ZPIZ-2* which (inter alia) dealt with the contracts for copyrighted work was not drawn in agreement with all the trade union confederations and was also passed in times of crisis when the trade unions had little room to manoeuvre, but contributions to social security associated with copyrighted work were not a major issue anyway (Delo, 2012; ZSSS, s.d.).

### Campaigns addressing the issue of precarious work

There were several campaigns addressing the issue of precarious work involving trade unions and sometimes also other social partners. One such example is the *Faces of Precarious Work* campaign in which several trade unions, employer organisations and even one of the major multinational TAW agencies operating in Slovenia collaborate with a social movement called *Movement for Decent Work and Welfare Society*. The objectives of the campaign are to raise awareness of the problems and rights of precarious workers, consulting and helping precarious workers to find appropriate public authorities when solving their problems. The final aim is, of course, to improve the lot of precarious workers by organising them and raising awareness of the issue (Obrazi prekarnega dela, s.d.).

One of the most visible campaigns in which trade unions were involved together with other actors such as *Slovenian Student Union* was the campaign against mini-jobs that the centre-left government tried to institute in 2010. The campaign was highly successful as the end result was the referendum in which the law on mini-jobs was turned down. There are also numerous but smaller campaigns or simply protests in media in which only trade unions were involved. Such was, for example, the campaign of one of the unions organising the workers in retail trade against the part-time employment contracts that prevail with the discounters (SDTS, s.d.). Another was the campaign mentioned above against state subsidies for self-employment which unions opposed, claiming that the state is actually promoting bogus self-employment. There was also a campaign against massive use of TAW in some companies (before quota restrictions) (ZSSS, 2011; ZSSS, 2013).

### Organising precarious workers

Some of the unions organise groups such as TAW workers (mostly as anonymous individuals) overlooked by their respective branch unions (Interview with union official, 2014a). The largest union confederation operating mostly in the private sector was contemplating the creation of a separate union for the self-employed but encountered opposition from the existing unions unwilling to accept the redistribution of resources necessary for any undertaking of this kind (Interview with union official, 2014b). Nonetheless, one of the unions from the same confederation already organises particular groups of self-employed workers in precarious positions – though not necessarily bogus or economic dependants – such as taxi drivers and newspaper carriers which even succeeded in making a credible strike

threat in 2014 (Interview with union official, 2014a). Also, there is a *Young Plus Union* organising mostly young precarious workers, young unemployed and students.

All in all, it seems that unions in Slovenia are quite aware of the problem of precarious work. They are relatively successful in shaping legislation regulating precarious work and in raising awareness of this issue through campaigns, but they are still looking for the best solution when it comes to organising this segment of the working class.

# METAL AND ELECTRICAL INDUSTRY

The metal and electrical industry consists – in terms of statistics – of three sub-sectors: the metal products industry, the electrical industry, and metals and foundries.

The crisis badly affected all the sub-sectors. During the period 2009-2013, approximately 25% of the workers in the sector lost their jobs. Before the crisis, the three sub-sectors employed 106,000 people, while at the moment the number of employees slightly exceeds 82,000. The employers' representative pointed out that the crisis caused changes in the supply chain: several large European concerns had cut their production – some of them even by one third – and sold out some of the product lines, so the manufacturers in Slovenia had to adapt to the new situation/reposition themselves. The principle of “sell where you manufacture” has become even more emphasized in the wake of the crisis (J.R., p. 5).

Data on the shrinking of jobs in the three sub-sectors do not include agency workers. Agency work is considered a service conducted by a separate sector – the employment agency sector.

The crisis caused many bankruptcies and production downsizing, but the companies that survived the crisis are today in a good shape. *“The companies that survived the crisis are mainly relatively successful.”* (J.R., p. 3). As a rule, every such company has its own development department; the share of “high technology” within the three said sub-sectors (all are primarily export-oriented) is comparatively high (cf. OECD Economic Survey, Slovenia 2015: 71). The ownership structure is mixed, and in some of the larger companies the proportion of internal (employee) ownership is quite high. At the moment, the situation within the three sub-sectors is relatively stable, with the metal products industry achieving the best results of all. The loss of the Russian market (owing to EU sanctions) caused certain problems in the past year. Employment has been growing gradually.

Before the outburst of the crisis, open-ended employment was the most widespread form, followed by fixed-term contracts of employment (Labour code - LC). Until January 1<sup>st</sup> 2007 legislation stipulated that the duration of the fixed-term contract could not exceed three years. After the expiration of the three-year period, some companies converted the fixed-term contracts into open-ended contracts.

In the immediate wake of the crisis, new employment under open-ended contract was an exception rather than a rule. However, the amendments to the Labour Relations Act of 2013 (ZDR-1, 2013) introduced a restriction on fixed-term employment by raising the contributions paid by the employer and imposing on them the obligation of paying severance money once the contract expires. To sum up, in the years following the crisis, and particularly legislative amendments which made fixed-term workers more expensive for the employers, this type of employment has been on the decrease.

The representative of SKEI (the Trade Union of the Metal and Electrical industry of Slovenia) believes that fixed-term contract has been losing its appeal; it is increasingly used as a form

of the probation period, to select the best among the workers who are then employed under open-ended contracts. Nonetheless, as the LFS data provided by the Statistical office of the Republic of Slovenia (SURS) show, the share of employees working on fixed-term contracts of employment out of all employees though lower than national average was still considerable (at 10,7% in 2014).

The interests of the workers are represented by the SKEI union, which is a member of the Slovenia's largest trade union organization – the Association of Free Trade Unions of Slovenia (ZSSS). SKEI has around 30,000 members. Of these, almost one half are women, with most of them working in the electrical industry. The SKEI has a three-tier organizational structure – it consists of the central office, 14 regional organizations and branches within individual companies. SKEI employs 14 professionals on a full-time basis, half of whom are regional secretaries, i.e. professional regional trade union leaders. The central office has four full-time employees.

In larger companies, up to 60% of employees are trade union members, while the overall percentage across all sub-sectors is 35%. As a rule, the members of trade unions are non-skilled, semi-skilled and skilled workers (80%).

The SKEI leadership has traditionally good cooperation with the Bavarian IG Metall and with the Czech, Slovakian, Hungarian and Austrian trade unions. The representatives know each other personally and have meetings twice every year. They also enjoy a strong professional support from the European Trade Union Confederation (ETUC).

The Electronics and Electrical Industry Associations, which operates as part of the Chamber of Commerce and Industry of Slovenia, is one of the three chambers that has signed a collective agreement with the SKEI. The representative of the Association told us that following the crisis, between 150 and 200 medium-sized and large companies operate within the sector. The Association has the status of a representative, since its member companies employ more than 50% of the workforce in this sector. It is an active member of the umbrella organization ORGALIME, which our interviewee described as “a lobbyist structure” that brings together national associations. (J.R., p. 14; 22)

### The most widespread atypical forms of employment: agency work and fixed-term employment

According to the SKEI representative, the most widespread atypical form of employment in the three sub-sectors analysed here is agency work. The new Labour Relations Act (ZDR-1, 2013) equalized agency workers and full-time regular employees, stipulating that both groups should receive the same salaries, have the same working conditions and the same working time. An agency worker under fixed-term contract may work for a particular company for two years at the most, after which period the agency may keep him/her only under an open-ended employment contract. The share of agency workers in a company may not exceed 25% of the total number of employees.

The SKEI representative stated that those relatively new rules have not yet gained ground in practice. The salaries of agency workers are still lower than salaries of permanent workers, they are not paid the annual vacation bonus and are not refunded the costs of transport from/to the workplace; some work 12 hours per day and do not have work-free days, in some cases not even holidays. Their living conditions are also not the same. *“When the lodging quarters in Šentvid caught fire, they realized that as many as 50 people were crammed into one room.”* (L.J., p. 8). The legislative amendment had an impact, though, and difference in the income of the two groups (agency workers and permanent employees) has begun to decrease, but on the other hand, new, informal practices have emerged. *“I’ve heard that agency workers have been giving back money. They get ‘normal’ salary and then give back part of that money. And now try to find someone who will admit it openly. They are scared.”* (L.J., p. 7).

**Table 1 Dimensions of precariousness (2014): metal sector (C24, C25, C28, C29, C30)**

		Quality of working conditions dimension						
Regulated by:			Incidence	Wages	Working time	Job security	Social security	Representation (voice)
The formal employment status dimension	Labour Code (contract of employment)	FT open-ended contract	65 000 87.2%*	+++	+++	+++	+++	+++
		Fixed-term contract	8 000 10.7%*	4%***				
		Part-time contract	1 000 1.3%*	7,8%****				
		TAW (fixed-term and open-ended contracts)	NA	++	++	+	+	-
	Non Labour Code	Self-employment, bogus self-employment	2057 3.2%**					
		Other forms of work (temporary)	2 000 2.7%*					

\* Share of a given form of employment in all employees in the sector according to LFS data. The “FT open-ended contract” category also includes those on part-time open ended contract of employment.

\*\* Share of self-employment in total employment in the sector according to the register data.

\*\*\* Share of workers receiving minimum wage in all employees working for legal entities in the sector according to the register data. Only employees of legal persons are included (i.e. employees of natural persons are not included). The data show the number of employees on the basis of hours worked and do not include workers on sick leave for more than 30 days, workers employed through public work programme whose wages and salaries are partly refunded by Employment Service of the Republic of Slovenia, and posted workers.

\*\*\*\* Share of employees working on contract of employment receiving a monthly income equal or lower than 789,15 eur (i. e. the legally stipulated value of minimum wage for a full time employees working on contract of employment in 2014) in all employees according to the register data in all employees according to the register data. Both employees of legal persons and employees of natural persons are included.

SOURCES: SURS, AJPES, FURS.

The SKEI representative predicts that in the future, as the industry grows and orders increase, companies will employ growing number of agency workers. Before 2008, employers systematically replaced permanent workers with agency workers. Some estimates put the number of agency workers during that time at 15,000 - 20,000. *“The number of agencies abnormally increased during that time, as did the number of agency-posted workers.”* (L.J., p. 3). During the crisis, agency work was virtually abandoned, since

there was not enough work even for regular employees, but with the crisis now over, it again began to increase.

According to the SKEI representative companies engage agency workers because they are cheaper for the employer and more obedient. For example, if they are asked to do six hours of overtime work, most of them will not resist. Many agency workers are foreigners. Since there is a shortage of certain skilled workers, e.g. welders, locksmiths and toolmakers, the agencies recruit them in Bosnia, Macedonia and Serbia. Striving to earn as much money as possible, they are willing to work overtime, including weekends. *“Slovenia is sometimes just a transit country. The agencies send workers on, to Germany. We have realized that agencies are based here only for that reason: so that Germans can hire a Slovenian agency.”* (L.J., p. 4)

Agency work is widespread also because of organizational issues. Employment agencies are organized employers and they offer a complete service. *“There is no hassle ... with agency workers. The agency takes care of the insurance, of all issues related to workers, it’s a complete service. A company that engages an agency does not have any headaches with agency workers – their sick leaves, holidays, problems. All that is handled by the agency. And companies are willing to pay for such a complete service.”* (L.J., p. 7)

The representative of the Electronics and Electrical Industry Association has explained that agency work is more used by those parts of the sector where production is not fully automated and where – despite modernization – there is still a lot of hand-assembling. (J.R., p 4). *“Otherwise the segmentation of the [internal] labour market is more pronounced in companies which neglect training and life-long learning at workplace.”* (J.R., p 18).

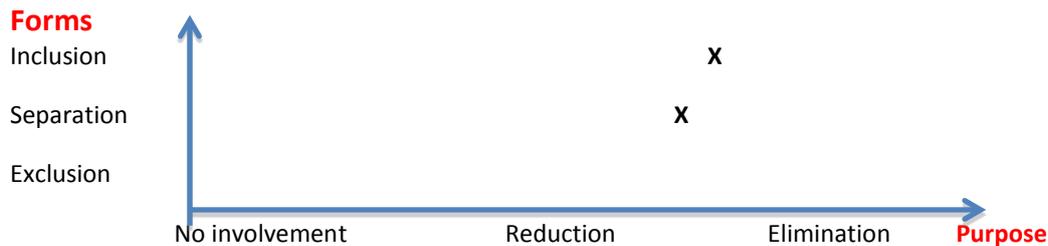
### The social partners’ actions addressing the agency work

According to the SKEI representative, there is a trend towards the precarization of employment in Slovenia. It would help if the trade union members and employees were more active. The problem is that *“... we are so passive in Slovenia. ... Everyone is indifferent until the things go to the extreme. I think that’s precisely what will happen. The current system will collapse and every worker will be a precarious worker ... But then it will be too late, of course. Everything moves in that direction.”* (L.J., p. 18) The main feature of the current employment practices and the general precarization trend is the restraining of open-ended employment. The consequence is the emergence of new types of precarious work arrangements which continually replace one another. *“[O]nce the agency work ceases to be the cheapest option they will come up with something else. If production [within the three sub-sectors] could be organized with independent entrepreneurs, the employers would do that. ... If they could make use of undeclared work, they would do it en masse. In larger systems it is obviously impossible, but in smaller companies these practices are present.”* (L.J., p. 6).

Contrary to this prevalent trend, the main strategic goal of trade unions is open-ended employment. If they want to sustain secure work arrangements, they need to prevent the spreading of precarious work. The trade unions maintain that all agency workers *“should work under open-ended contracts, since as a rule their work is fully comparable to that performed by regular employees.”*



**Chart 1: Trade union strategies vis-à-vis precarious employment: metal sector**



Agency work is in the focus of attention of trade unions. If it slips “out of control” and spreads uncontrollably, open-ended contracts will cease to exist.

On the other hand, both interviewees agreed that the very nature of production in the three sub-sectors analysed here may prevent the excessive use of agency work. Agency workers do not identify with the companies for which they work, and many even do not have all the skills required. Regular employees often complain that “*he [agency worker] doesn’t care [about the quality of work], so I have to fix it [a product] after him later on.*” (L.J., p. 3) For example, Acroni, a producer of steel products, established that agency workers caused too many problems and expenses, because high turnover of workers calls for incessant training of ever new workers. Eventually, they employed the best agency workers under open-ended contracts and stopped using agency services. (L.J., p. 3).

The SKEI representative stated that the latest legal restrictions (ZDR-1) also altered employers’ practices and strategies. For example, the rule that agency workers cannot make up more than 25% of the total number of employees radically changed the business operation of the Ljubljana based Hella company. Before the restriction came into force, Hella had 1,000 employees working under open-ended contract, and 1,000 agency workers. “*After the introduction of the quota, there were rumours that part of the production would be relocated to Slovakia. It was obviously a consequence of the restrictions on agency work. ... Employers adapt very quickly. And no one, but really no one among them considers agency work to be ‘temporary work.’ For them, it is always ‘permanently agency work,’ never ‘temporarily.’*” (L.J., p. 4).

#### Trade unions instruments to implement the strategies

The SKEI representative has reassured us that trade unions are open to agency workers. They make effort to establish contact with them and try to persuade them to join the trade unions. The idea is to attract agency workers to join the union and to ensure that they have the same working conditions as permanent employees.

**Table 2 Trade union instruments to implement strategies: metal sector**

Category	Target groups of union action	Instruments
Information	Precarious workers	Informal campaigns, service-oriented instruments, individual empowerment
	<b>Permanent employees</b>	<b>Various educational sessions</b>
	Precarious workers	Identity politics
	<b>Public</b>	<b>Media</b>
	Public, employers, other trade unions	Shaping benchmarks on employment standards
Consultation	<b>Precarious workers</b>	<b>Services for empowerment (via ZSSS)</b>
	<b>Government, employers</b>	<b>Consultations and advise on legislation are present as a part/phase of negotiations on Economic and Social Council</b>
Negotiation	<b>Government, employers, other unions</b>	<b>Economic and Social Council: negotiations concerning legislation</b>
	<b>Employers</b>	<b>Collective bargaining</b>
Union organizing and industrial action	<b>Precarious workers</b>	<b>Litigation</b>
	Precarious workers, the public	Organization (via ZSSS)
	Precarious workers, other unions	(mobilization is insignificant)

There are two problems, though. One is that trade union representatives within companies sometimes try to avoid admitting agency workers into the trade union, because the admission procedure and dealing with agency workers' issues call for extra work that exceeds usual trade union activities. The other has to do with record keeping – the high turnover of agency workers makes keeping track of them difficult.

According to rough estimates, approximately 2-3% of agency workers are members of SKEI. In larger companies with several trade union professionals and higher levels of union membership, there are more activities and trade union representatives have more time to devote to agency workers. In most companies, though, trade union representatives are not professionals but employees who volunteer as trade union activists outside their working hours. They indeed do not have adequate conditions or options to deal with the problems encountered by agency workers.

Despite all difficulties, every worker who encounters a problem and turns to the trade union for help will receive adequate assistance. *“Our association [ZSSS] has an office – info point for migrants, agency workers and non-members in general. If they run into difficulties, they can come to our office and they will help them.”* (L.J., p. 10).

Organization/mobilization of precarious workers is hampered by certain problems/obstacles.

Permanent employees (members of SKEI) often insist that agency workers pose a competition to them, because they work for lower salaries and under conditions which permanent workers consider unacceptable; they are willing to work overtime, while regular workers endeavour to restrict overtime work. *“Eventually, because of them we will have to work for lower salaries or be dismissed, and they will stay...”* (L.J., p 8) The effects of precarisation of a part of the workers' collective thus have implications for the segment of

regular employees too. First, the efforts and sacrifices that temporary agency workers, or as a matter of fact, all temporary workers, are willing to make in order to secure themselves a regular job in the company (cf. De Stefano, 2009) increase employer's expectations from regular employees regarding their own work efforts and intensity. These expectations are then enforced on the regular workers by means of competition for regular jobs as the mere presence of increasingly integrated temporary workers increases the individual risk of substitution and brings the regular workforce closer to the market (cf. Holst et al., 2010:134). Second, competition produces what one could term the *ideological effects* of precarisation, since it breaks the ties of solidarity among different segments of workforce on the shop-floor which traditionally materialised in the trade union organisation.

The SKEI has made a systematic effort to educate permanent employees that agency workers are not their enemies but rather people who experience existential crisis and are therefore forced to accept unfavourable working conditions precisely because of their precarious situation. *"We endeavour to explain to our members - don't see them as enemies, help them, they have nothing else, take them in. The same goes for young people."* (L.J., p. 5). Various educational sessions have been organized to explain to them that the law equalized the status of agency workers with that of regular workers, so if unlawful practices are detected – and it is unlawful practices that make agency workers appear as a threat – they should be reported to the labour inspectorate.

The problem is that permanent employees do not voice their grievances. *"I swear I looked all around Slovenia for one of ours who would say 'I'll tip them off, those employers.' [who abuse agency work] I tried to find someone who'd tell to the inspectorate when to act, where, who to check. ... And what do you think, have I found anyone? There is no such hero who would say 'this is how it is in our company.' ... Sometime I myself report to the inspectorate, bypassing others, because I think it went too far. And in the end it turns out that they are almost angry with me."* (L.J., p 9).

Problems also originate with precarious workers. They often criticize trade unions, alleging that they protect their own members and regular employees while neglecting the problems faced by agency workers. In their opinion, trade unions are to be blamed for their precarious situation.

The trade union representative adamantly rejects criticism, giving examples of companies in which agency workers have been successfully incorporated into the trade union. *"Eti, Izlake has up to 20% of agency workers. The trade union leader in that company has been successful in recruiting agency workers. She pays a visit to them, introduces herself, explains who she is and asks them to join the union. And she takes care of them the same as she cares for her workers. In that company it won't happen that they [agency workers] are not paid the same [as regular employees], or that they are not paid the annual leave bonus, or that they work overtime, or that they work as agency workers for more than two years. The company takes special actions from time to time and gives agency workers permanent jobs."* (L.J., p 5).

However, if the above-mentioned criticism turns out to be justified then, in the opinion of the union representative, only one step is needed to resolve the situation. If that is how young precarious workers see the situation, and if they think that the existing trade unions

do not protect their interests, then the only logical step is to get organized and establish their own trade union. *“Organize yourself into a trade union. Perhaps it will make things easier than if you are so angry with us. But that does not happen.”* (L.J., p. 6).

### Employers: hiring atypical work

The employers’ representative pointed out that the employers are very interested in regulating and stabilizing their relationships with employees and among employees. Some workers are employed under open-ended contracts, others under fixed term contracts, and some are agency workers. *“There shouldn’t be large differentiation in terms of their rights and it is also not wise. Viewed from the perspective of all other effects of employment [inside] the normal production process and concrete relationships, it simply does not work.”* (J.R., p. 10).

What is of the greatest importance for a company is to have workers who are capable of coping with changes. It is not a marginal issue but rather an essential need that influences the everyday life of a company. *“A person is no longer an owner of a job position ... What we achieved in 2005 with the collective agreement is that we did away with job positions and switched to several types of job. The employer and the worker now sign an agreement that covers more than one job. In the previous arrangement it was not possible. ... We managed to reach an agreement [with trade unions], with safety valves, of course, which are necessary to prevent exploitation.”* (J.R. p. 11).

The representative of the employers’ association strongly stressed the need for a systematic planning of professional careers. In the environment dominated by new technologies, knowledge obtained in (vocational) schools is only basic, *“and then it is a life-long, interactive learning at the workplace, because the technological system is so powerful.”* (J.R., p. 12). The combined use of mechanical and pneumatic systems, and electrical machines and electronics that control those systems is increasingly gaining ground. It is called mechatronics. *“A mechatronic worker is a person who knows how to service automated production lines, how to serve them as well as plan.”* (J.R., p. 2).

### Joint initiatives

The amended Labour Relations Act passed in 2013 (ZDR-1) is the most significant result of joint initiatives and the social dialogue. The law indeed ensures sufficient protection of precarious (agency) workers, but control mechanisms are still problematic.

Even the previous Labour Relations Act from 2004 stipulated protection mechanisms, but in the face of objections that they were deficient, the quotas were introduced.

The SKEI representative thinks that provisions on the national level ensure better protection for workers than, for example, the system that is in place in Germany, where everything is left to entrepreneurs. As a result, the percentage of agency workers in Germany has been rapidly increasing, with BMW being among the characteristic examples of the trend.

The Labour Relations Act (ZDR-1) ensures relatively good protection of agency workers in Slovenia. In the past, most agency workers worked under fixed-term contracts, but once the law was amended, the practice has changed. The reason is that the earlier mentioned quota, which restricts the percentage of agency workers within the user company to 25% of the total number of employees, is binding only if agency workers work under fixed-term contracts. However, if they have an open-ended contract with the agency, the quota is not applicable. The consequence is that now agencies sign open-ended agreements to circumvent the restriction (quota).

Better protection of precarious workers was accompanied with another change in the labour legislation – in exchange the trade unions acceded to the liberalization of the dismissal procedure for employees on open-ended contracts (shorter notice period, lower severance payment and the like). The employers' representative we interviewed thinks that the decrease in fixed-term contracts was a direct effect of the liberalization of dismissal procedure *"The share of fixed-term employment has been decreasing because the new legislation on labour relations enables employers to dismiss regular workers quickly. It had been the main problem for employers before the law was amended."* (J.R., p 11). Both interviewees agreed that better regulation of precarious work was part of the bargain that led to the flexibilization of provisions regulating permanent employment. However, employers are still not completely satisfied with the level of flexibility they have when dismissing workers, mentioning short notice periods in Austria as a comparison. (J. R., p. 20).

The change in the regulations caused certain predicaments. *"Revoz [a Renault subsidiary] thought that the new Twingo would be a market success. They engaged 1,000 agency workers in October, but then realized that the sales were not as expected so they halved the number of employees. They terminated contracts with agencies which signed open-ended contracts with workers [to circumvent the quota]. So they caused problems for agencies. I think that they had to pay penalties..."* (L.J., p. 12).

### Collective bargaining

Each of the three sectors of the metal and electronic industry concludes separate, sector-specific agreements. These largely resemble one another since the situations of the three sectors and forms of employment are much alike. The most typical form of employment in all three sectors is open-ended contract. The proportion of precarious work in all three sectors is similar (10 – 20%, estimation), with agency work being the most widespread type.

The representative of the employers emphasized that collective bargaining and their relations with the trade union are in essence cooperative and inclusive. *"Over the past eighteen years since I've been working for the Chamber, SKEI initiated a general strike two or three times. Then we reached an agreement. Every strike ended in an agreement."* (J. R. p. 13). In accordance with the provision issued by the Ministry of Labour, Family and Social Affairs, the collective agreements concluded with the SKEI are – due to the employers' association representative status, extended to all companies and all employees within the sector. (J. R. p. 14).

The collective agreement imposes on the employers the obligation to ensure for agency workers the standards comparable to those enjoyed by regular employees. However, these general provisions in collective agreements are not binding on employment agencies, since the latter are not signatories to the collective agreements. Therefore, general provisions in these agreements do not ensure adequate protection.

The largest agencies (e.g. Manpower and Adecco) are among the largest employers in Slovenia. Manpower already has 7,000 to 8,000 employees. Apart from the public sector and large retail chains, there is no other comparably large employer in Slovenia. Large employment agencies have been considering a separate collective agreement for their sector. Their motive is to protect themselves against unfair competition posed by approximately 50 to 60 small employment agencies – some of which are not officially recognised – which lower the standards of agency work. Large agencies attempt to secure legal rights for their workers, i.e. the same rights as enjoyed by regular employees, so a collective agreement within their own sector would be a means of ensuring better protection for themselves in the face of unfair competition. The problem is that so far the trade union association (ZSSS) has not responded to their initiative. An individual trade union cannot be a signatory to such a collective agreement, because agency work is present in various sectors.

In the three sectors analysed here, the levels of trade union membership are relatively high, so social partners still conclude collective agreements. However, in sectors where trade union membership is low, the employers have been withdrawing from collective agreements, for example in the construction and textile industry.

In the sectors where trade union membership has been declining rapidly, employers occasionally put forward the initiative to sign companies' collective agreements. The reason is that the Labour Relations Act (ZDR-1) allows certain issues to be regulated in a manner that is less favourable for workers. As a consequence, employers in the sectors where trade unions are either weak or virtually do not exist press for collective agreements in an attempt to lower certain standards. Or, agreements are not concluded at all. For example, the provisions restricting fixed-term employment are not binding on small employers if such a clause is inserted in the collective agreement. Or, the law stipulates that during a half-year period, the number of working hours per week should average around 40, but that period may be extended to one year by an agreement. Something similar holds true of the rules applying to holidays and past work.

The SKEI representative pointed out that such practices are the reason behind trade unions' occasional "rigidness" with regard to legislative amendments. For example, greater flexibility enabled by the amended Labour Relations Act opens new avenues for both good practices and abuses. *"As long as it is cemented in law, it cannot happen. But as soon as the law makes it possible to discuss an issue within a company, every company quickly agrees on new flexibility. I don't know if that is ever going to change or improve, but I have funny feeling about it."* (L.J., p. 18)

## Conclusion

The main types of precarious work within the mechanical and electrical industry are agency work and fixed-term contracts of employment. The amended 2013 law (ZDR-1) formally equalized the status of agency workers with that of permanent workers in terms of salaries, working time and other working conditions. Since it restricted the number of agency workers working under fixed-term contracts to 25% of the total number of employees in the user company, and since the quota can be exceeded if agency workers have open-ended work contracts with the agency, the number of agency workers on open-ended contracts began to increase.

Despite it, agency workers continue to be less paid than company employees, because they do not receive various bonuses. Their working time is less favourable, and their job and social security is radically lower.

The main goal of trade unions is to bring the status of precarious workers in line with that of regular employees, i.e. to eradicate precarious work. Accordingly, the trade unions are currently using an interim strategy in an effort to reduce the differences between precarious and regular workers. The most visible effect of that strategy was the legislative amendment in 2013. It was a “political bargain” in which the reduction of differences was achieved by acceding in return to the “relaxation” of the employment and dismissal procedures for regular employees on open-ended contracts.

The main instruments used by trade unions to implement the strategy are negotiations on legislative changes within the Economic and Social Council of the RS, collective bargaining and public campaigns. The fact that employment agencies that “lend” workers to companies are not signatories to the collective agreements within the three sectors in question largely hampers the efforts towards a complete equalization of agency workers and regular employees in terms of salaries, working time and other working conditions.

# HEALTH CARE

In Slovenia, the founder of secondary and tertiary level healthcare institutions, i.e. hospitals and medical centres, is the state. The founders of primary level institutions, i.e. outpatient clinics, are individual municipalities. Although there is a parallel system of specialized private healthcare centres (operating with concessions) and many professionals work for both public and private institutions, the larger part of the Slovenian healthcare system is (still) in the public domain. Of the 36,941 public healthcare employees, 6.9% are involved in private businesses, or are self-employed or work under contract (KPK, 2014). Most of them are dentists, physicians and psychologists.

The healthcare system in Slovenia is therefore largely dependent on healthcare policy at a given moment, shaped by the Ministry of Health. Over the past 10 years, at least ten persons served as health ministers. This fact in itself suggests that the healthcare system underwent considerable turbulence.

The employers and trade unions agree that the factor that most shaped the healthcare sector during the crisis was a restriction on public sector employment. The Fiscal Balance Act (ZUJF) of 2012, stipulating cost-cutting measures during the crisis, states, among other things, that employment in the public sector is allowed only in exceptional cases regardless of the valid standards and norms applicable to individual activities within the public sector, and regardless of human resources planning, work programs, business and financial plans of individual budget users. Every new employment contract in a public healthcare institution must be approved by the health minister, or the head of municipality and the board of a municipal health institution, and under conditions specified in ZUJF. By imposing such restrictions, the government indeed encouraged the emergence of atypical employments.

ZUJF was an attempt to introduce the strategy of “soft” reduction in the number of public employees. It stipulates mandatory retirement for public employees who meet the requirements for the old-age pension, and prohibits the filling of vacancies. The government expects to achieve a 1% annual reduction in the number of public employees in this way, but trade unions and employers are critical of such approach. In their opinion, such measures jeopardize the quality of public healthcare, because mandatory activities within the sector have remained the same and the need for new employees has been increasing year by year owing to social and demographic trends.

The representative of the trade union has pointed out that even before the crisis the healthcare sector was understaffed. *“In 2005, we first made the analysis on the national level, followed up by new analysis each year to the present day. In 2005, we already established a 20% “undernourishment” in terms of the nursing staff. This means ... that we are short of nurses, especially in hospitals, for hospitalized patients.”* During the crisis, the shortage increased not only by 1% as ZUJF envisaged, but by as much as 6 to 7 percentage point, primarily because of the increased demand for healthcare services, which continues to grow. With the nursing profession being highly feminized, the fluctuation in this segment – caused by maternity and parental leaves, sick leaves and child care leaves – is also high, i.e.

15% to 20%. One consequence is work overload, which in the words of the union representative leads to an increase in the incidence of exhaustion and depression. Accordingly, the number of workers with disabilities in the healthcare sector conspicuously exceeds the statutory quota, because health institutions are forced to re-categorize their employees with health conditions (most of them are nurses) into employees with disability.

Unlike trade unions, the employers think that the number of nurses is adequate. The Statistical Office data show that in 2007, meaning before the outburst of the crisis, there were 16,658 nurses in the Slovenian healthcare system; in 2011, before ZUJF was passed, their number rose to 18,300 (Brnot, May 5, 2012), while in 2015 it is approximately 20,000 (as estimated by the union representative). It is evident that even during the crisis the nursing staff steadily increased. The trade union representative explains this by the fact that the trade union achieved an agreement that all workers on long-term leaves (e.g. maternity leaves) should be substituted with fixed-term workers. The employers' representative explained that in the situations when it is necessary to employ a new worker, they circumvent ZUJF and the required approval from the Ministry. For example, during the few month that preceded our interview, they employed 40 nurses, and they submitted a request for 70 new permanent nursing positions to cover the needs of the intensive therapy unit.

The shortage of the nursing staff puts additional pressure on employees – they need to shoulder a greater workload and work overtime. According to the union representative, more than 200,000 hours of nursing work within healthcare and social institutions remain unpaid. The workers are paid 10% to 45% of overtime hours, while the remaining hours are carried forward into the next month. According to the Labour Relations Act (ZDR 1), overtime hours may be carried forward four months at the most, after which they must be paid. The circumvention of the said provision in ZDR-1 is partly a consequence of the stipulation in ZUJF that restricts the payment of overtime hours.

ZUJF also restricted promotions, so public workers who fulfil the criteria for promotion cannot move to higher positions or to a higher salary grade. The trade union representative thinks that this restriction affects primarily young people. As beginners, they receive entry-level salary (which roughly corresponds to the minimum wage) and cannot move up the job ladder for a long time.

According to the Statistical Office data for 2011 (Brnot, May 5, 2012), the share of men in the nursing segment reached 12.4% of the total number of employees, and it is expected to increase even further. On average, men's salaries were 6% higher than women's. The majority of male nurses (70.4%) were 20 to 39 years old, while the majority of female nurses (51.1%) were between 30 and 49 years old. The union representative especially emphasized the problem of the aging of this professional group, which is only compounded by the ban on the employment of new (young) staff.

Most nurses have secondary school diplomas. During the past decade, the educational standards in this segment have been raised – nurses are now required to have a training college diploma, and many older nurses cannot meet these requirements. According to the union representative, 1,300 nurses and male nurses, and 300 nurses with a collage diploma are registered with the Employment Service of Slovenia at the moment. Every year around

50 nurses with the college diploma seek jobs abroad, primarily in neighbouring Austria and Italy.

### The most widespread atypical forms of employment: fixed-term and part-time work

Most of the employees within the Slovenian healthcare sector (90% of them according to our interviewees) are permanent, full-time employees (LC). The employers' representative explained that it is the most adequate type of employment in this sector. *"We are a public sector and we have to take care that our co-workers enjoy normal employment arrangements. We do not exploit and we are not the slaves of profit-oriented economy."* Another argument emphasized by both interviewees is the nature of work which calls for stable, professional and experienced staff. However, regular workers have also experienced insecurity, because pressures towards the economization of public services may lead to the downsizing and closure of certain institutions or dismissals for business reasons.

The salient feature of this sector is atypical or flexible working time (app. 60% of all workers have atypical working time). They work in three shifts (with the morning and afternoon shifts lasting 7 hours, and the night shift 10 hours), including on weekends and holidays. The employees who are on a sick leave, vacation or are absent for other reasons need to be substituted and the staff needs to be redeployed, which puts additional burden on workers and calls for their flexibility. They may be required to work outside standards shifts, for example, from 10 a.m. to 6 p.m., or their working day may be interrupted/broken down into several units, making the harmonization of work and family life more difficult for them.

Atypical employment arrangements account for up to 15% of all employment arrangements in the sector. The most widespread form is a fixed-term contract of employment (LC), primarily to substitute workers on maternity leaves. In the words of the employer, *"by far the largest number of contracts is substitutions. For example, a maternity leave: a worker who is on a maternity leave needs to be substituted during that period. Of the 308 contractual workers in the UKC [the Ljubljana University Medical Centre] ... 257 are substitutes."* Fixed term work under contract of employment is in all respects equalized with regular work, except for the permanence of the job position. Before the crisis, many fixed-term employment contracts were on their expiration converted into open-ended contracts, but now this is possible only in exceptional cases because of the restrictions imposed by ZUJF.

**Table 3 Dimensions of precariousness (2014): health care (Q86)**

		Quality of working conditions dimension						
Regulated by:			Incidence	Wages	Working time	Job security	Social security	Representation (voice)
The formal employment status dimension	Labour Code (contract of employment)	FT open-ended contract	32 000 86.6%*	+++	+	+++	+++	++
		Fixed-term contract	4 000 10.8%*	3.4%***	+	+	+	+
		Part-time contract	2 000* 5.4%*	7,1% ****	+(+)	+++	++	+
		TAW (fixed-term and open-ended contracts)						
	Non Labour Code	Self-employment, bogus self-employment	1 556 4%**					
		Other forms of work (student work - temporary)	1 000 2.7%*		+	+	-	+

\* The share of a given form of employment in all employees in the sector according to LFS data. The “FT open-ended contract” category also includes those on part-time open ended contract of employment.

\*\* The share of self-employment in total employment in the sector according to the register data.

\*\*\* The share of workers receiving minimum wage in all employees working for legal entities in the sector according to the register data. Only employees of legal persons are included (i.e. employees of natural persons are not included). The data show the number of employees on the basis of hours worked and do not include workers on sick leave for more than 30 days, workers employed through public work programme whose wages and salaries are partly refunded by Employment Service of the Republic of Slovenia, and posted workers.

\*\*\*\* Share of employees working on contract of employment receiving a monthly income equal or lower than 789,15 eur (i. e. the legally stipulated value of minimum wage for a full time employees working on contract of employment in 2014) in all employees according to the register data. Both employees of legal persons and employees of natural persons are included.

SOURCES: SURS, AJPES, FURS.

The trade union representative has pointed out that part-time contract of employment (LC) is another form of employment frequently found among nurses. Many part-time employees are persons with disability, or parents, mainly women, who can harmonize professional and private life only if they work part-time. The Parental Protection and Family Benefits Act (ZSDP-1) stipulates that one of the parents who cares for a child up to three years old (or until the youngest child completes the first grade in elementary school) is entitled to part-time employment. Part-time contracts could therefore be described as shorter-working time contracts of employment based in law. Similar legal provisions are also found in the legislation pertaining to retirement. A significant feature of part-time contracts based in law is the scope of social rights attached: a part-time employee is entitled to the entire set of social rights enjoyed by full-time regular employees (Rajgelj, 2015). Most part-time contracts are open-ended contracts, and the average weekly obligation is 30 hours. Despite these options, the number of part-time female employees in Slovenia is relatively small compared to that in other EU countries. For example, in the Ljubljana University Medical Centre, only 5% of all employees work under part-time contracts.

According to the LFS data provided by SURS, student work is also present in the healthcare sector. Healthcare institutions mainly engage students of medicine and nursing colleges, in

most cases for short-term substitutions. The price of student work is favourable (low hourly rate) and students are flexible. Both interviewees said that during the recession, the scope of student work decreased. With the latest government measures regulating the labour market, the cost of student work somewhat increased. In addition, in accordance with the principle “every work counts,” minimal social rights arising from this type of work were introduced (pension and health insurance contributions).

The union representative noted the emergence of non-paid preparatory training (which was not practised before the crisis).

Supplementary contractual work is widespread in the healthcare sector as a whole, including in the nursing segment. It does not involve additional contractual employment of new employees, but is performed by regular sector employees. As a matter of fact, public sector employees are entitled to the “120% employment scheme,” meaning that they can additionally perform up to an equivalent of 20% of their original workload through supplementary contractual work, which is legally allowed in the situation of an increased scope of work and when an organization gains new programs, in particular market programs.

Trade unions endeavour for the equal treatment of all employees – if doctors, surgeons and anaesthetists are paid under supplementary work contracts, then other team members, i.e. nurses, should also be paid under the same scheme.

Nurses who work for private clinics outside their regular employment also work under contracts. When it comes to private healthcare sector, trade unions devote special attention to the norms relating to human resources management. For example, they draw attention if persons without adequate qualifications are engaged to perform professional tasks, or if administration staff is entrusted with professional tasks.

ZUJF stipulates that supplementary work contracts should be approved by the head of the institution. However, the large number of supplementary-work contracts points to certain other dimensions of the problem of work overload. Especially problematic is the fact that during the period of high unemployment, particularly among young people (the Statistical Office data show 12.8% registered unemployment rate), the government has not restricted supplementary work in order to create new jobs for the unemployed.

Since nursing is a team work, self-employment in this segment is very rare and is mainly found among district nurses who provide nursing services at patients’ homes.

### The social partners actions addressing the precarious work

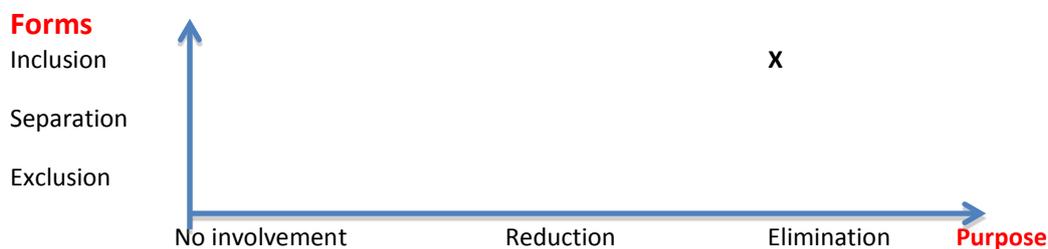
Both interviewees agreed that standard employment forms should be maintained not only within the public healthcare sector but also wider. The adequate legislation and social dialogue were implicated as part of the strategies they use.

The interviewee who spoke on behalf of employers stated as follows:

"... I strongly believe that work should be safeguarded as a value, and so should be employment. It is necessary to safeguard permanent employment which then brings benefits throughout life, a typical example is a loan, contributions paid and all that. In short, a kind of stability. People are generally more content, more productive if their environment is stable. (...) I also bet on economics – Keynesian economics, which argues that particularly during the time of recession the problems should be solved by increasing demand. And of course, you increase demand by giving people work and paying them for their work."

The legislation should impose restrictions on flexible employment and encourage stable forms so that people may feel safe. On the other hand, the employers should create the kind of conditions that would discourage flexible forms of employment.

**Chart 2: Trade union's and employer's strategies vis-à-vis precarious employment: health sector**



The trade union representative stated that the union supports all employees in the healthcare sector, regardless of whether or not they are union members. The economic crisis made it especially clear that workers with atypical employment contracts are under greater pressure and more exposed to exploitation than regular employees. The trade union representative believes that flexibilization of the labour market, if unavoidable, should be shaped by the rules defined through the social dialogue procedures.

Trade unions within the healthcare sector cooperate with each other and they are also members of the confederation of the public sector trade unions. They advocate the perpetuation of open-ended employment contracts, work towards preventing unsuitable fixed-term agreements, and oppose unpaid traineeship. The employer we interviewed stated that they did not take part in the joint initiatives aimed at improving the situation of workers in atypical work arrangements. *"We are a public institution. The first and foremost principle in a public institution is lawfulness. Put differently, we are obliged to act in accordance with the law. ... We strive to ensure for our employees all the standards that in the usual modern environments are taken as normal employment relations and I believe that in this case trade unions cannot offer anything more than employers."*

While the employers strive to preserve standard forms of employment, their primary wish is to regain the very option of employing new staff so that they can ensure normal and quality implementation of healthcare programs to meet the growing demand. As an employer said, *"whenever we have solid arguments, we employ without asking Minister's approval. We know that we break the rules in this way, but we take a risk in a way."*

In the situation in which the government is not willing even to discuss the need for new job positions within the healthcare system, the trade unions resort primarily to media pressures and the threat of a strike.

Trade union instruments to implement strategies

Organizing of workers on atypical employment arrangements is not a priority for trade unions. They tackle the issue of irregular atypical work arrangements – as a rule, these involve unlawful extensions of fixed-term contracts – on a case by case basis using legal means. The problem is that they often do not have necessary information – where the irregularity took place and who is affected – because the employees do not report such cases.

All in all, the key problem within the healthcare sector seems to be not atypical employment but rather the overload of work which regular employees have to shoulder as a consequence of inadequate standards and norms that date back from the pre-crisis period. The situation was only aggravated by the austerity measures and the scaling down of the public sector.

**Table 4 Trade union instruments to implement strategies: health sector**

Category	Target groups of union action	Instruments
Information	Precarious workers	Informal campaigns, service-oriented instruments, individual empowerment
	Precarious workers	Identity politics
	<b>The public</b>	<b>Media</b>
	Public, employers, other trade unions	Shaping benchmarks on employment standards
Consultation	Precarious workers, other unions	Services for empowerment
	Government, employers	<b>Consultations and advise on legislation are present as a part/phase of negotiations on Economic and Social Council</b>
Negotiation	<b>Government</b> , political parties, other unions	<b>Public pressure, political lobbying; Consultations and advise on legislation are present as a part/phase of negotiations on Economic and Social Council</b>
	Employers	Collective bargaining
Union organizing and industrial action	Precarious workers	Litigation
	<b>All employees</b>	<b>Organization</b>
	<b>Precarious workers (full time and fix-term)</b>	<b>Mobilization</b>

During the past few years, the main instrument used by trade unions to promote their standpoints was a fairly systematic media pressure on the government. The pressure was supported by independent studies which have shown high rates of health problems, disability and mortality among nurses. The unions use the same arguments to support their stance when negotiating the standards and norms of employment in the healthcare sector. They also advocate vocational insurance which would make employees in the healthcare sector eligible for early retirement with full benefits.

The government, however, repeatedly rejected discussions with the trade unions about the need to set new employment standards and norms which would create new jobs within the healthcare system.

The trade union representative stated that “... *the managements of the institutions and even healthcare politics and general politics .... have nevertheless become more sensitive to what we say, even aggressively if there is no other way... It is definitely an achievement that – I think it was in January – after all those public and media attacks, that the minister responded, which she had not done for three months before that.*”

Media pressure is also a strategy for avoiding a strike, which in the healthcare sector can be only partial because of the needs of patients.

### Employers: hiring atypical workers

The employers’ representative pointed out that the Fiscal Balance Act and the Budget Implementation Act force them to actively look for atypical forms of employment, although he himself, as an employer, strictly opposes them. “*We cannot afford incessant succession of employees, including in the nursing sector, because every employee needs to go through the period of introduction into the work process.*”

The UKC Ljubljana also considered the engagement of agency workers, but they dropped the idea because of administrative obstacles and the VAT which increases the cost of agency work. For the time being, they continue to negotiate with the Ministry each time they need to obtain permission to employ additional workers.

### Collective bargaining

The healthcare sector has a collective agreement signed in 1998. The signatories are the Ministry of Health, the Ministry of Labour, Family and Social Affairs and the Medical Chamber of Slovenia on behalf of employers. On behalf of employees, the signatories are the Trade Union of Healthcare Employees of Slovenia, the Trade Union of Health and Social Services of Slovenia, and the Trade Union of Healthcare and Social Welfare of Slovenia.<sup>3</sup>

At the moment, the trade unions and the government negotiate new standards and norms of employment which will be the basis for increasing the number of employees in the healthcare sector. The threat of a strike in 2013 brought the government to the negotiating table and compelled it to consider the standards and norms proposed by the unions. Although the government failed to meet the deadline several times, the strike has not been staged so far. The trade union, as already pointed out, uses the strategy of media pressure. The latest deadline for the government’s response was June 2015.

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<sup>3</sup> Available at <http://www.uradni-list.si/1/content?id=3103> (last accessed June 5, 2015).

## Conclusion

Atypical employment in the healthcare sector in Slovenia is not widespread. The ratio of standard to atypical employment is 85% to 15%. The most common types of atypical employment are fixed-term contracts of employment (LC) – primarily to substitute for employees on maternity leave which in Slovenia lasts one year – and part-time contracts of employment (LC). Both are based in law, with the latter being available to parents with small children and persons with disabilities. Students (non-LC) are engaged as short-term substitutes for workers on holidays. A large number of work contracts (non-LC) found in this sector are supplementary-work contracts available to regular employees as the state, despite ZUJF regulation, has not limited additional 20% workload for employees in the public sector.

The main problem within the healthcare sector stems from inadequate/obsolete employment standards and norms, which had also been responsible for the 20% shortage of staff before the crisis. The shortage causes an overload of work that needs to be shouldered by existing employees and jeopardizes the quality of public healthcare services. The cost-cutting and streamlining policy within the public sector, aimed at alleviating the crisis, only compounded the problem by reducing the salaries while prohibiting employment, the filling of vacancies, promotions to higher positions and payment of overtime hours.

The “rationalization” processes that lead to the merging and downsizing of healthcare organizations cause fear among employees that they might lose their jobs. The nursing staff is a rapidly aging group, among other things because of the ban on the employment of young people. Young nurses without jobs are thus compelled to emigrate abroad in search of work. Given that Slovenian society is one of the most rapidly aging societies in Europe, such a situation is a cause of grave concerns.

The employers and trade unions share the same goal: to expand standard forms of employment in this sector. Both employers and trade unions strive, despite prohibition on employment, to obtain public funds which would enable them to employ new workers. Given that the number of healthcare sector employees increased over the last few years, and more importantly, that those new jobs belong in the category of standard employment, it could be said that their strategy is successful to some extent at least. It should be noted that despite the return of economic growth in Slovenia over the past two years, the government intends to transform some temporary ZUJF provisions into permanent ones.

It should also be noted that in order to implement the strategy of expanding standard employment, the employers take a risk and even violate ZUJF provisions if necessary, while the trade unions threaten to go on a “white strike” and exert pressure through the media.

# RETAIL SECTOR

Within the group of Slovenian non-specialized, mainly grocery retailers, the consolidation trend and the simultaneous concentration of market shares, accompanied with the closure and takeover of small retail shops began as early as in the second half of the 1990s. The result was that a decade ago the three largest retailers had a market share of 90%. The situation began to change in 2006 with the arrival of foreign discount retailers which steadily increased their market shares over the following years at the expense of three conventional large and relatively well unionised retailers (cf. Dmitrović & Bodlaj, 2014; UMAR, 2014a; 2013).

The number of active workers<sup>4</sup> in the retail sector (G47) fell from approx. 58,000 in 2008 to approx. 52,900 in 2014, i.e. by 8.9%, and in trade as a whole (group G) by 10.3%. The decrease in the economy as a whole during the same period was 9.3% (SURs).

In the retail sector, the crisis had stronger impact on employment than on wages (as in other parts of the Slovenian economy, cf. UMAR, 2014B). Wages in the retail sector – indeed very low before the crisis – increased faster than the average wage in the economy as a whole. This should probably be attributed to the faster increase of minimum wage compared to average wage in the economy, and to the annex to the collective agreement signed in 2013. Nevertheless, in the opinion of the union representative, wages in the retail sector continue to be very low. In 2014, the average gross salary in non-specialized retail shops, mainly food stores (NACE rev.2 group G47.110 where three of the largest employers in this sector belong, i.e. Mercator, Spar and Tuš), was slightly less than 1090 €.

Most employees in the retail sector have completed secondary or vocational school: the retail sector has higher than average number of employees with secondary school education (around 78% compared to approx. 57% in the economy as a whole), while the number of employees with elementary or high/higher school education is below average (SURs).

In addition to several small trade unions, social partners in the sector are the Trade Union of Workers in the Trade Sector, which is a member of the Slovenian Association of Free Trade Unions, and KS 90 – Trade Union of Commerce of Slovenia. On the employer side, the most important social partners are the Slovenian Chamber of Commerce, the Association of Employers of Slovenia, and the Chamber of Commerce and Industry of Slovenia. The only representative trade union in this sector is the Trade Union of Workers in the Trade Sector, which is also a signatory to the collective agreement. The agreement is binding on all employers in the sector. The trade union sees this as a double-edged sword: on the one hand, it prevents social dumping but, on the other, the extension of the agreement to non-unionised companies reduces workers' motivation to join the trade union. The Slovenian Chamber of Commerce (TZS) which was established in 2007 has 6000 members, many of which are small and micro companies. Around 60% of its members are traders/merchants, while others are companies in trade related business. The TZS is a member of the ESS, meaning that it participates in the dialogue on the national and sector level. The Chamber is

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<sup>4</sup> SURs registry data – active population comprises employed and self-employed persons.

also a member of the EuroCommerce association, and many of its members take part in other European associations.

### The most widespread atypical forms of employment: part time and student work

In the view of the trade union representative, precarious workers are migrants, students and other workers in insecure work arrangements. While in principle fixed-term contract of employment (LC) is not considered precarious work, he agrees that it should be as rare as possible, or non-existent for that matter. He has a similar attitude towards part-time employment contracts (LC). As regards franchises and self-employed entrepreneurs (previously employed by large retailers but then turned into sub-contractors), the trade union considers them mainly economically dependent persons.

The representatives of the Slovenian Chamber of Commerce, however, had a completely different view on the issue of atypical employment, i.e. precarious work. They did not agree that an open-ended full-time contract of employment is the only standard form of employment, while all other forms are atypical. *"We cannot agree with that. ... I cannot readily say that it's atypical, or what is typical. Whatever is possible, that is, the contractual parties may sign an agreement."* (B. K., 2015). They also thought that the very differentiation between voluntary and non-voluntary atypical employment is not based on solid arguments.

*"Every employment contract, or any other contract, is a free decision. So I cannot agree on that point, what is voluntary and what is not, because it is an agreement. And an employment contract or any service contract, you sign it of your own free will. No one can force you into it, so that would be my comment on the subject."* (ibid)

They further stated that all lawful forms of employment are present in the sector and they treat them all as equal.

As regards *standard employment* (LC open ended, full-time employment contract), the biggest problem are low salaries, particularly (but not exclusively) in grocery stores. The union representative stated that a large problem is a pressure to extend working time beyond the statutory limit. The insecurity of standard employment arises not so much from the legal situation, as from the danger of losing the job as a consequence of bankruptcies and the restructuring of companies during the crisis. Most employers pay social contributions, and in this respect the problems are mainly caused by smaller companies. For the time being, open-ended contract of employment still prevails within the sector. In employers' opinion, despite the relaxation of dismissal rules in 2013, dismissal is still subject to many restrictions, which particularly affects smaller employers without their own legal departments.

In the opinion of the trade union representative, *fixed-term employment contract* (LC) became more common during the crisis. The salaries are the same as for permanent employees – they are in line with the collective agreement. The union representative thinks that persons with insecure employment arrangements should have higher salaries. The trade union attempted to negotiate higher salaries for them when discussing the collective

agreement, but unsuccessfully. While the precariousness of fixed-term employment contract primarily stems from the low level of job security, social security associated with fixed-term employment contracts is also jeopardized because of the potential discontinuity of social insurance. In addition, low level of job security has other consequences, too. For example, banks are reluctant to give loans to fixed-term employees. The trade unions apparently have no problems with organizing these workers. The employers (TZS) representatives stated that the TZS did not oppose the legislative changes of 2013, which among other things introduced severance pay for fixed-term workers.

One of the most important aspects of working conditions in the retail sector regards work schedules (cf. e.g. Carre et al., 2008). To be more precise, at least two of the reasons behind part-time employment stated in relevant literature can be found in Slovenia too, although the motives may vary depending on the business model adopted by a retail company.

**Table 5 Dimensions of precariousness (2014): retail sector (G47)**

		Quality of working conditions dimension						
Regulated by:			Incidence	Wages	Working time	Job security	Social security	Representation (voice)
The formal employment status dimension	Labour Code (contract of employment)	FT open-ended contract	51 000 79.2%*	++ 12.4%***	+++	+++	+++	+++
		Fixed-term contract	8 000 11.8%*	20,9%****	+	+	++	+
		Part-time contract	5 000 7.3%*	+++	++	+++	++	+
		TAW (fixed-term and open-ended contracts)	NA					
	Non Labour Code	Self-employment, bogus self-employment	3022 5.7%**	+	+	+	+	-
		Other forms of work (student work – temporary)	6000 9%*	++	+	+	++	-

\* The share of a given form of employment in total employment in the sector according to LFS data. The “FT open-ended contract” category also includes those on part-time open ended contract of employment.

\*\* The share of self-employment in total employment in the sector according to the register data.

\*\*\* The share of workers receiving minimum wage in all employees working for legal entities in the sector according to the register data. Only employees of legal persons are included (i.e. employees of natural persons are not included). The data show the number of employees on the basis of hours worked and do not include workers on sick leave for more than 30 days, workers employed through public work programme whose wages and salaries are partly refunded by Employment Service of the Republic of Slovenia, and posted workers.

\*\*\*\* Share of employees working on contract of employment receiving a monthly income equal or lower than 789,15 eur (i. e. the legally stipulated value of minimum wage for a full time employees working on contract of employment in 2014) in all employees according to the register data. Both employees of legal persons and employees of natural persons are included.

SOURCES: SURS, AJPES, FURS.

Of the five sectors analysed here, part-time employment seems to be most widespread in the retail sector. In the words of the trade union representative, the massive use of *part-time employment contracts* in discount retail chains is motivated by endeavours to achieve the highest possible productivity, since with repetitive tasks productivity tends to fall after five or six hours of work (cf. idem, 10). Accordingly, part-time employment contracts, usually involving a 5-hour workday, have almost become a rule in this kind of retail chains.

“A worker is most effective for 5 hours so they can put maximal demands on her. The requirements were also high at the check-out counter – women working there have to carry several tons a day. You cannot do more than your body allows you. When they made calculations on the European level, how much they can burden people, it turned out to be 5 hours. So they said: ‘OK, we will pay you good money for those 5 hours’ – and they do pay, and all the rest is family life. ‘You’ll be able to harmonize family life at home.’” (L. R., 2015)

Although the absolute amount of salaries for such a 5-hour workday in hard discount chains is similar to that of full-time employees in large conventional retail companies, in the opinion of the trade union it comes with a sting in the tail – the social security contributions paid by the employee are proportional to the (shorter) working hours. Accordingly, with respect to certain social rights, they are worse off than full-time employees (cf. Rajgelj, 2015). Part-time employees indeed have the option of paying retirement contribution on their own, but that radically reduces their (generally low) net income.

The union representative, who pointed out that retail workers are heavily overburdened, also added that the pace of work in discount retail chains is such that only younger people can cope with it. Accordingly, the employees are mainly young people, while older adults are not welcome. In short, the testing of the limits of efficiency has two negative consequences: one is part-time employment and all the inconveniences accompanying it, and the other is insecurity of employment. The escalation of competition caused by the entry of discount retail chains in the past decade, which was further aggravated by the economic crisis, also influenced the forms of employment. The trade union representative mentioned that one of the larger, traditional retail companies has recently become enthusiastic about part-time employment contracts although for the time being employees are not forced into this kind of employment. However, it is increasingly offered as an option to them.

The interviewed representatives of the Slovenian Chamber of Commerce are aware that part-time jobs are common primarily in discount retail chains, but they do not agree with the criticism of part-time employment contracts. They pointed out that employees accept this type of work arrangement of their own will and that they receive adequate salaries and bonuses. They also emphasized that part-time jobs were not on the agenda when negotiating the collective agreement in this sector. As to the question of raising social contributions from part-time employment contracts, they stated that the economy should not be additionally burdened with new contributions and supported their stance by referring to the existing social agreement for the period 2015-2016.

In traditional retail chains (such as Mercator or Spar), the motives for introducing part-time employment are mainly of a different nature. In these stores, part-time jobs are dictated by the competitive struggle which demands a continuous search for cuts in the labour costs in the environment of relaxed legal restrictions on opening times. Large retailers are confronted with a twofold challenge: longer opening hours create the demand for more staff, but keeping a competitive edge in fierce price competition requires the cutting of labour costs. Thus retail companies strive to bridge the gap between working time of regular

employees and opening times of shops and, at the same time, to operate at the absolute minimum staff levels by adjusting personnel deployment to (daily) fluctuations in customer flows and sales. They achieve this by resorting to the fragmentation of working time which is broken down into smaller units, or modules (cf. Jany-Catrice & Lehndorff, 2002; 2005). Such modules enable them to achieve required flexibility of the workforce but the problem is that modules are extremely short – up to three hours – so regular workers do not accept them easily, forcing retailers to resort to *student work* (non-LC).<sup>5</sup>

However, the filling of the gap between the opening hours and employees' standard working time is not the only motive for hiring students. The trade union (SDTS) representative said that following the layoffs during the crisis, the retailers increasingly hired students to make up for the shortage of staff. In defending this practice, employers mention the obstacles they face when dismissing permanent employees. Such obstacles are, of course, non-existent as regards student work which is, on the other hand, highly precarious in view of job security. In the opinion of trade union representative, the payment for student work is adequate though. The Slovenian Chamber of Commerce opposed the changes in 2015, when the minimum hourly rates for student work and the obligation of paying retirement and disability contributions were introduced, because that increased the costs for the employer. However, the companies had to accept changes. In the view of the Chamber, it is an additional argument in favour of easing off the tax and contribution burden on regular employment contracts.

*Agency workers* (LC) are mainly hired for work in warehouses. The trade union can monitor their working conditions only with difficulty, because agency workers tend to avoid exposure. The union representative meets them outside working time and outside business premises. Agency workers' rights stipulated by labour laws are often violated. For example, they operate defective machines, the working time rules are not observed (holidays), the provisions on work safety are violated, they are not provided with storage space for their possessions and the like.

The trade union attempts to protect them by protesting against other violations of labour laws in order to bring the labour inspector into the employer's premises. Since owing to job insecurity and precarious social security agency workers avoid straightforward reporting of violations (exposure), sending a labour inspector to check their workplace seems to be the only solution. When preparing legislative amendments pertaining to agency work in 2013, the Slovenian Chamber of Commerce did not receive any specific guidelines from its members regarding this issue. In addition, the employers do not express any need to change the legislation pertaining to this segment.

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<sup>5</sup> Apart from that, in an attempt to streamline labour costs of workers hired to fill the gaps caused by the absences of permanent employees, the trading companies have recently begun to introduce a new form of (functionally) flexible employment called "jumper." *"Because there are so few of them that they cannot stand in for workers on sick leave or holidays, not only we but shop managers too were forced onto our back feet because they cannot complete the cycle. So now everyone has jumpers. They are slightly better paid and they come to substitute anyone who is absent, so that the work process may go on uninterrupted. And they travel all across the country to cover for it."* (L.R., 2015)

An insolvable problem for the trade union is presented by “*posted workers*” who, in the words of the union representative, are often brought to Slovenia by their employers with the help of employment agencies.

“[T]hey bring cleaners from Bulgaria and those cleaners, as I see it, you cannot do anything for them ... They will outsource, say, the cleaning of toilets, and then they bring [them], with [the help of] some Bulgarian who is in Slovenia, they sign a contract and he brings workers from Bulgaria. (L. R., 2015).

The trade union has no control whatsoever over such “posted” workers – among other things also because of the language barrier. These workers turn to the trade union only when they are desperate. As a consequence, the union leaders are not acquainted with their working conditions, although the very absence of control suggests that these may be very poor. It is a case of super-exploitation – posted workers are poorly paid, their contributions are paid in their countries of origin if at all, there is no control over their working time, and their employment is highly insecure. The situation of migrant workers is similar. *Migrants* too are frequently recruited through various agencies that are beyond trade union’s control. They work long hours and have no work-free weekends; they are frequently recruited to work nightshifts in warehouses, because employers have difficulties with findings domestic workers willing to perform this work.

Finally, *self-employed persons* (non-LC) – and for many of them self-employment is the only option – constitute a relatively large group of precarious workers. They lease smaller branches or kiosks owned by large retailers, and perform work themselves or as franchise holders along with their own employees. Since, as the union representative put it, “*they are given one year and then ... they come under pressure*” (L.R., 2015), self-employed workers often find themselves in difficult situation. Their income is so low that some cannot even earn for their livelihood or pay social contributions. Many of them who joined trade union before they became self-employed remain union members. Speaking of this type of precarious work, the employers’ representatives reasserted their stance that self-employed persons made the choice of their own free will, so it is not possible to speak about involuntary self-employment. As to the introduction of the institute of an economically dependent person, the members of employers’ association had no objections.

**The social partners actions addressing the precarious work**

The trade union in principle strives for the complete elimination of precarious jobs, but they are aware that it is impossible in the given situation. Therefore, their main strategy is to make precarious workers as expensive as possible for the employer.

**Chart 3: Trade union strategies vis-à-vis precarious employment: retail sector**



Exclusion



The real life situations, however, force trade unions into compromises that deviate from their general orientation. For example, in response to the regulation of working time (aimed at protecting employees), the companies increased the number of precarious workers. In one company, the trade union and the employees acquiesced to uneven distribution of working time and overtime work, for which they negotiated higher pay, but the amount of overtime work was limited and the trade union required the opening of new job positions in the case of higher demand, to prevent further overburdening of workers. However, many companies do not respond to an increase in the demand by employing new regular workers but rather *“recruit those unlucky students.”* (L. R., 2015). In such situations, the trade union finds itself in an unfavourable position, since in retail shops precarious workers, and students in particular, are

*“welcome as someone who can ease the burden ... we go along with those fixed term jobs to relieve other regular employees in the retail sector. It’s simply to reduce the workload on people. Because here they are overburdened, they’re truly burdened. ... Well, I don’t want to see precarious work – I want to see as little of it as possible. But the catch is, if someone, a precarious worker, takes some burden off you, it’s also....”* (L. R., 2015).

The same difficulties are encountered in relation to fixed-term employment contracts. To protect regular workers, the trade union is sometimes forced to take a course that is not necessarily in harmony with its general strategy, so they try to resolve the problem by making fixed-term arrangements

*“more expensive, on the one hand, while on the other, on the company level we exert pressure, we agree to fixed-term arrangements so that other regular workers can be relieved.”* (L. R., 2015)

In brief, the trade union is in a predicament: it advocates restrictions on precarious work, but on the other hand it can protect overburdened retail workers only by allowing a larger scope of precarious work. The problem is compounded by the fact that permanent employees often see precarious workers as their competitors. The trade union representative even mentioned conflicts among permanent employees and migrant workers which at times bordered on physical assaults. On finishing their 8-hour shift the former return to their families and private life, but migrants are willing to work even more than 12 hours a day for a meagre salary, including Saturdays and Sundays, without any safety measures at workplace. The *ideological effects* of precarisation which we encountered in the metal sector can thus be found also in the retail sector, especially in warehouses.

The Slovenian Chamber of Commerce has no special strategy regarding the issue of precarious employment or the segmentation of the labour market. As mentioned earlier, they treat all types of employment as equal and do not give priority to any specific one.

However, it is not possible to say that they do not have a stance on atypical or flexible employment arrangements. As regards their strategy in this respect, the interviewees stated that the Chamber simply expects from the legislature and social partners,

*“generally speaking, as much flexibility as possible when it comes to the labour legislation. Because the employers must have it, or they cannot do their work.”* (B. K., 2015)

*“We have come a long way, you know, the business has changed, sometimes they have to move to a new location. It’s not so simple.”* (M. L., 2015)

The trade union does not have nor compiles its own database about precarious employment within the sector. They learn about the situation on the spot, and the companies do not hide information from them. Large companies with professional shop stewards are the most easy to handle, since stewards are well acquainted with the situation in the company. The Chamber of Commerce also does not have statistics on atypical or precarious employment, since in their opinion decisions about employment should be regulated on the company level and the Chamber does not interfere with it. The scope of atypical employment is not a subject of discussion at the Chamber. They keep track of publicly available data only.

#### Trade unions instruments to implement strategies

The trade union takes a proactive approach to organizing precarious workers. According to the representative of the union, the membership has been increasing. However, their mobilizing power is limited because of the way in which they are organized. This is rather evident in the case of foreign discount stores which resist trade union organization in a more or less obvious way. The phenomenon is by no means specific to Slovenia – the German trade union VER.DI struggled for several years to organize workers within a hard-discount chain which is also present in Slovenia, but eventually had to admit failure (Geppert et al., 2014). Although the Trade Union of Workers in the Trade Sector (SDTS) has recently managed to attract many employees working for discount stores, they mainly join as anonymous members and pay membership dues using a special method introduced for their benefit. The trade union can offer them primarily services, i.e. legal assistance, loan guarantees and holiday accommodation. A similar strategy – loan guarantees – is used to attract fixed-term employees to join the trade union. However, this type of service-oriented trade union has one important limitation – being unable to organize workers on the shop-floor in certain retail chains, it is even more difficult for them to organize a strike of the entire sector.

*“[I]t is very difficult to organize people working in the retail sector to go on strike, because it is so dispersed. You have nothing. If I want to get people, I’ll get them in, say, Mercator or Spar, but Lidl and Hofer will gloat at it, because those do not dare even ... and then they will have hordes of people in their stores.”* (L.R., 2015)

**Table 6 Trade union instruments to implement strategies: retail sector**

Category	Target groups of union action	Instruments
Information	Precarious workers	Informal campaigns, service-oriented instruments, individual empowerment
	Precarious workers	Identity politics
	<b>Public</b>	<b>Media</b>
	Public, employers, other trade unions	Shaping benchmarks on employment standards
Consultation	<b>Precarious workers</b>	<b>Services for empowerment (via ZSSS)</b>
	Government, employers	
Negotiation	<b>Government, employers, other unions</b>	<b>Negotiations concerning legislation in the ESS (via. ZSSS)</b>
	<b>Employers</b>	<b>Collective bargaining</b>
Union organizing and industrial action	Precarious workers	Litigation
	Precarious workers, the public	Organization
	Precarious workers, other unions	(mobilization is insignificant)

It seems that the organizing of young people carries a greater mobilization potential. SDTS has recently invested a lot of effort into their organization, and has achieved considerable success, since their approach is quite different from that of the older generation. The main goal of the project is to mobilize young people around the issue of working time. Retail companies require a lot of Sunday and overtime work, which is indeed paid more but the overall earnings are still low, because the basic hourly rate is very low.

In principle, the trade union does not cater for self-employed persons and one-person companies, unless they had joined the union before they were “outsourced,” because from the legal point of view they are employers, not employees. As mentioned above, they have difficulties catering for posted workers, especially because some of them cannot be accessed at all.

In addition to the working time issue, one of the most acute problems is the deregulation of the sales profession, which is one of the government’s commitments in line with the European Commission’s requirement. SDTS observes with unease the prospects of increasing competition among retail workers due to a legislative amendment which aims to deregulate the sales profession, arguing that the profession would be devalued, in the sense of *“if you are not good, you can still be a salesman.”* (L.R., 2015) The trade union representatives predict that once deregulation is implemented, the retail sector will be populated by school dropouts and children whose parents cannot afford to pay for their education, pointing out that an uneducated worker is easily swayed.

The second legislative initiative is the assessment of the Pension and Disability Insurance Act 2 (ZPIZ-2) by the constitutional court, since persons who lost their jobs but continued to pay pension insurance from their own pocket under ZPIZ-1 in order to prevent the time of unemployment invading into their period of pensionable service, have now retroactively lost that right. The trade unions demand constitutional assessment of the law on the initiative of retail workers, who make up a large group of those affected by the change in the law.

According to the trade union representative, the most efficient instrument available to unions is media pressure. When asked if the media pressure yielded results in the case of the two discount retailers which offer part-time employment almost exclusively, he answered that both companies were willing to talk to him as soon as the media articles were published.

*See what they fear most. I am quite like that, I can be very energetic. They are most afraid of the mass media and bad publicity. And I always tell them that they don't have as much money for advertisements to counter bad publicity that I can produce. So they are willing to discuss. (L. R., 2015)*

Somewhat surprisingly, the media pressure is, in the opinion of the union representative, more efficient than legislative initiatives or social dialogue.

### Employers' strategies – specific instruments

Much like trade unions, the Chamber of Commerce also devotes attention to the issue of the deregulation of sales staff, but in contrast to trade unions, it supports it. In their opinion, it will make easier the promotion of the sales staff to managerial positions, because at the moment they are required to complete additional courses which in turn incur additional costs. They have also pointed out that because of education requirements, domestic companies are disadvantaged compared to foreign companies involved in cross-border supply of services which are not obliged to meet these requirements because deregulation has already been implemented in their home countries. Deregulation of education requirements would therefore represent a step towards a better business environment in Slovenia, according to the Chamber. Their response to the objections of the opponents of deregulation – that deregulation will reduce the quality of sales services – is that the proximity of competitors in the neighbouring countries is a sufficient warrant of quality, given the equal market awareness of Slovenian consumers. They further think that the present collective agreement offers good protection against the devaluation of the sales profession in the wake of deregulation.

The Chamber's strategy regarding tax legislation is also quite clear. It seems that in this connection for the employers the most acute problem is the tax wedge, that is, the difference between net income and the cost paid by the employer, since both interviewees emphasized that it was an area where a step forward should be made.

### Collective bargaining

Both social partners agree that the social dialogue within the sector is smooth. On the national level, social dialogue enabled the labour market reform in 2013. On the level of the sector, it resulted in the collective agreement that is binding on all employers. The two social partners also cooperated in producing the user manual that accompanied the collective agreement, which includes their joint comments. The collective agreement was drawn as part of the European project and was presented to the European Commission. The Chamber of Commerce and the trade unions also jointly organized educational courses and trainings

for trade union's representatives and around 700 employees who perform managerial functions.

We can agree with Mrozowicki et al. (2013) who argue that the main instruments used by the trade union within the retail sector to protect precarious workers, are collective bargaining and collective agreements. The representatives of the Chamber of Commerce also emphasized the role played by collective agreements, since in their opinion social dialogue is the most important instrument that can lead to good solutions within the sector. For example, the issue of working time, which is a very important one, as well as payment of overtime work and weekend hours, is regulated by the collective agreement. Further, the agreement covers the categorization of sales staff and shop managers into pay grades, which is an issue that could crop up on the agenda once the profession is deregulated. The collective agreement does not address precarious work specifically. The social partners are of the opinion that in principle the social dialogue within the sector is good.

### Joint initiatives

Deregulation of sales profession, in addition to the collective agreement, is the issue that brought together trade unions (SDTS, SVIZ, The Trade Unions of Gorenjska, and KS-90) and some employers' associations (the Slovenian Chamber of Commerce and Industry– or at least the Chamber of Entrepreneurship which works under its auspices – and the Chamber of Craft and Small Business). These employers' associations oppose deregulation arguing that it would reduce the quality of sales staff services. However, the government has a strong support from the Chamber of Commerce. The trade union is also supported by the Chamber of Crafts in striving for the constitutional assessment of ZPIZ-2, with the latter arguing that the issue should be given priority.

### Conclusion

The main types of precarious work in the retail sector are fixed term and part-time employment contracts as well as student work.

The main goal of the trade union is to completely eliminate precarious employment. However, since the achievement of that goal seems to be impossible, they try to reduce precarious employment as much as possible by setting standards that would make precarious jobs very expensive for employers. These goals (reduction and elimination) are combined with partial inclusion – especially of part-time employees – and the treatment of fixed-term workers as a separate group that calls for a special approach.

The strategy is similar to that employed by SKEI in the mechanical and electrical industry.

The main instruments used are media campaigns and collective bargaining. The trade unions are also indirectly included (through the central organization, the Slovenian Association of Free Trade Unions) in legislative debates, i.e. the regulation of precarious work.



# CONSTRUCTION

The construction sector consists of three sub-sectors: the construction of buildings, civil engineering and specialist construction works. The sector is the third largest employer in Slovenia. According to the Statistical Register of Active Population (SURs 2015), in 2008 the number of workers in the construction sector was at its peak – nearly 90,000. With the economic crisis heavily impacting the construction industry, their number began to decrease rapidly and in 2013 only 55,000 workers remained employed in the sector. The downward trend continued over the past two years, although at a somewhat slower pace. In March 2015, total employment in this sector amounted 53,223, of which around 33,000 work for corporate entities, which is a 45% decrease compared to 2008.

During the same period, the scope of construction works reduced even more (by almost 66%). “[T]he scope of work decreased much more than the number of employees. The reason was a large share of foreign workers. It was an important buffer, I reckon there would otherwise be 15 to 20 thousand more unemployed persons. I think it should be pointed out. In 2014, the scope of work increased by twenty percent compared to 2013. It means that the scope is still fifty percent smaller than that in 2008. The last year’s increase is primarily a consequence of the use of the last financial perspective of European projects.” (O.K., 6).

One of the more recent acute problems in the construction sector has been caused by so-called project companies which compete at public tenders and then seek sub-contractors. “But that means that the whole project is sub-contracted.” (O.K., 6). If such a company obtains the project, it retains a relatively large part of money, meaning that little money is left available for sub-contractors, particularly those at the end of the chain who “can only with difficulty cover the labour costs, particularly social contributions. It is a responsibility of the main contractor. In Germany, for example, the main contractor is responsible for the payment of all workers in the chain, in accordance with the sub-contractor system of responsibility. We don’t have anything like that.” (O.K., 7)

The Trade Union of Workers of the construction sector of Slovenia (SDGD) is a member of the Slovenian Association of Free Trade Unions, of the European Federation of Building and Wood Workers, and of Building and Wood Workers International.

The SDGD is the only representative union within the sector. “Of around 33,000 employees in the construction companies who are our potential members, 25% are members. And half of them are [working for companies] undergoing bankruptcy or similar procedures. Put differently, of the total number of 33,000, only 12% finance us. Others are also members, but in accordance with our statutes, they do not pay while they are unemployed.” (O.K., 8) The attitude of trade union members towards the organization is somewhat problematic. “Our

*main problem is that our members see the union as a kind of market product. They ask themselves 'what will I get if I give 10 euros? Will I get 12 in return?' There is no awareness that we are the working class and that it is good to be connected in some way, because only in that way we can achieve something. That individualism is prevalent within the union too and it also causes problems."* (O.K., 10)

The employers have three representative organizations:

- a) The Chamber of Construction and Building Materials Industry of Slovenia (ZGIGM), which is part of the Chamber of Commerce and Industry of Slovenia. In 2013, 480 companies were members of ZGIGM.
- b) The Construction Section, part of the Slovenian Employers Association, and
- c) The Construction Workers Section, part of the Chamber of Craft and Small Business of Slovenia, which does not take part in the social dialogue on the national level.

### The most widespread types of atypical employment: fixed-term employment and self-employment

According to data obtained by the trade union representative, the construction sector is not a typical sector with many precarious workers, although there are certain groups that come close to the definition of precariousness. *"It is a general impression that there is a lot of precarious work in the construction sector. Precarious work comprises more uncertain work arrangements which do not have connection with traditional labour relations. It primarily involves forced (bogus) self-employment or employment based on various types of contracts. Put differently, everything that is meant to avoid employment under some kind of traditional work contract, so to say. But it is not so widely present in the construction sector."* (O.K.,1). In general, the problem is that precarious work is a growing trend. *"I have no idea how to stop it. Except, if people themselves said it's enough. Give us a work contract and don't [...] with that self-employment."* (O.K., 17). He was surprised when metal and construction workers in Poland staged a strike a short while ago – it points that in Central and Eastern Europe workers have been regaining self-awareness.

The problem with formal endeavours to reduce precarious work also lies with the definition. The notion of precarious work is not well defined and it is not a legal category. *"When we speak about precarious workers, we speak about something that is not a legal category. Do you know what I mean? We couldn't find a name for them, so we call them precarious, but we could as well use another term."* (O.K., 17).

Of all the atypical forms of employment, the most frequently encountered one in the construction sector is a fixed-term employment (primarily as seasonal work), and self-

employment. According to the Eurostat data (Labour Force Survey), in the second quarter of 2014, 10,600 workers in the construction sector worked under fixed-term contracts, while the number of self-employed workers was almost the same – 10,500.

**Table 7 Dimensions of precariousness (2014): construction sector (F)**

		Quality of working conditions dimension						
Regulated by:			Incidence	Wages	Working time	Job security	Social security	Representation (voice)
The formal employment status dimension	Labour Code (contract of employment)	FT open-ended contract	30 000 75.6%*	++	+	++	++	++
		Fixed-term contract	8 000 21.2%*	13.1%***	+	-	+	-
		Part-time contract	1 000 2.5%*	27,4%****				
		(undeclared) TAW	NA	+	+	-	+	-
	Non Labour Code	Self-employment, bogus self-employment	9 544 17.7%**	+	+	-	+	-
		Civil contracts, i.e. subcontracting	NA	+	+	-	-	-
		Other forms of work (temporary)	1 000 2.5%*					

\* The share of a given form of employment in total employment in the sector according to LFS data. The “FT open-ended contract” category also includes those on part-time open ended contract of employment.

\*\* The share of self-employment in total employment in the sector according to the register data.

\*\*\* The share of workers receiving minimum wage in all employees working for legal entities in the sector according to the register data. Only employees of legal persons are included (i.e. employees of natural persons are not included). The data show the number of employees on the basis of hours worked and do not include workers on sick leave for more than 30 days, workers employed through public work programme whose wages and salaries are partly refunded by Employment Service of the Republic of Slovenia, and posted workers.

\*\*\*\* Share of employees working on contract of employment receiving a monthly income equal or lower than 789,15 eur (i. e. the legally stipulated value of minimum wage for a full time employees working on contract of employment in 2014) in all employees according to the register data. Both employees of legal persons and employees of natural persons are included.

SOURCES: SURS, AJPES, FURS.

There are between 9,000 and 10,000 self-employed persons (non-LC). “The greatest problem with self-employed persons is that they do not issue bills. Put differently, they can say ‘the price with the bill is such and such, and without bill is such and such.’ And those self-employed have approximately the same number of people employed by them, each one has at least another one working along him. They pay their employees mainly the minimum wage and the remaining sum they pay in cash. That is double evasion: one of the VAT, when they work for a client, and the other of taxes and contributions, because not enough taxes and contributions are collected from them. It is a bigger problem than undeclared work.” (O.K., 12)

In the past, and particularly before and during the first two years of the economic crisis, many foreigners worked in the construction sector, but their number then declined. On the other hand, *“Slovenia has actually been turning into a kind of basin, a reservoir of posted workers.”* (O.K.,2) Slovenia has seen the emergence of companies which post abroad (in EU states) either Slovenian workers or workers from ex-Yugoslav republics (especially Bosnia-Herzegovina). These postings are legally regulated, in accordance with the Posted Workers Directive and the labour standards of the destination country. *“The problem begins when posted workers are not paid by our employers.”* (O.K., 2-3). Moreover, the companies that post workers abroad should pay all taxes and contributions in Slovenia, but in practice there is no control over it although the relevant state bodies issue A1 form and health care insurance. *“In 2014, more than 100,000 A1 forms were issued; of these, sixty to seventy percent were construction workers who work abroad.”* (O.K., 3).

The non-payment of contributions and occasionally of salaries resulted in media stories that received wide attention and diminished Slovenia’s reputation. In other countries, workers are under the protection of the trade unions of the country in which they work, and since they are formally Slovenian workers, Slovenian unions cooperate with foreign trade unions. *“We have memorandums and agreements within the European Associations, describing how to resolve this or that issue, and that’s the reason for being connected, not simply in order to meet each other.”* (O.K. 13)

Another serious problem within the construction sector to which the trade unions have long since been drawing attention is agency work, albeit non-standard. *“These are situations when an employer hires co-operators for typical construction works, because of the shortage of own workers. But co-operators frequently exploit workers. If you hire someone to do the electrical wiring in your house, you’d say ‘this is how many cables we need, this is how many boxes, this is the price per piece...’ Co-operators offer their workers to do a specific type of work, but in fact they practically hire them per hour. In fact it is agency work. Co-operators only post workers.”* (O.K., 1) It is a grey zone because these agencies are not common employment agencies. Typical agency work (LC) is not widely spread,<sup>6</sup> *“but exploitation takes place through co-operators. It is a service contract which, on closer inspection, includes all the elements of agency work.”* (O.K.,12)

The wages of construction workers with open ended contracts of employment (LC) are on average by 18% to 20% lower than the Slovenian average wage, primarily because of lower educational levels of workers. This in turn reduces their social security. *“The problem connected with social security is also the non-payment of contributions, especially for posted workers. The number of such cases is now lower. But there is a lot of undeclared work,*

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<sup>6</sup> *“Generally speaking it’s non-existent. Generally, very few agencies post construction workers. Indeed it would be difficult to find any such example. But in many cases they abuse business contracts which in fact have the characteristics of agency work, it is really widespread. It is what I mentioned earlier.”*(O.K.,8)

*indeed. According to the inspectors, the construction sector is a segment with most undeclared work ... and there is no social security if you work undeclared.” (O.K., 10).*

The wages of employees with fixed-term contracts of employment (LC) (seasonal workers) are in principle even lower. On the whole, the entire payment system in the construction sector is problematic. *“We negotiate to achieve basic wages on the level of the sector, but at the moment it’s still a fantasy. Every employer may regulate it as he wants.” (O.K., 11)*

Job security is *“primarily dependent on the stability of the sector as such.” (O.K., 10).* In the words of O.K., there were virtually no smaller or larger job cuts in the sector. *“Our companies have either 500 or 0 employees. There are only these two options. Put differently, either all 500 work, or the company goes bankrupt.” (O.K., 10).*

Working time is an important topic in the construction sector, and it can be very problematic, particularly in terms of control over it. *“Occasionally, there are double records at construction sites: one is internal, between the boss and the workers, and the other is intended for inspectors.” (O.K., 9)* The collective agreement allows more than 40-hour working week during certain periods, but on the annual level the number of working hours should not exceed 40 hours per week on average. In principle, seasonal workers work as much as other employees, but in practice their working time is more unfavourable (longer). *“Because in some sense they want to work more hours per day and then go to Bosnia for one week. You know how it is. He thinks ‘why should I spend afternoons lying in my room. If I go to a bar, it will cost, it’s better to be at the construction site and earn some money.’ And then he will go home.” (O.K., 11).*

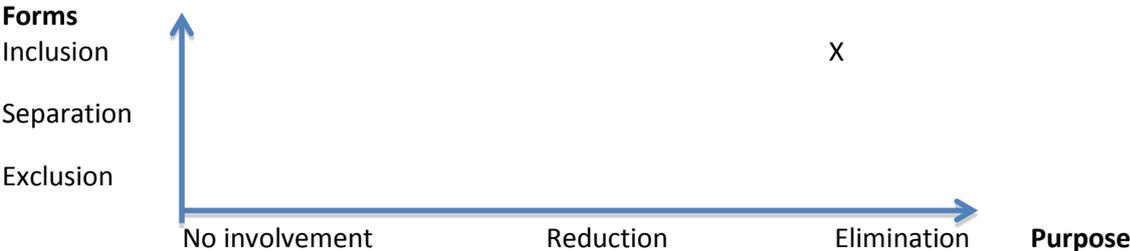
## The actions addressing the precarious work

Any construction worker is welcome to join the trade union. *“We don’t differentiate by forms of work. For us, a worker is a worker and we don’t differentiate among them on the basis of education, nationality, work status, or anything else.” (O.K., 12)*

As already mentioned, there are not many foreign workers (migrants) in the construction sector, primarily owing to the small scope of work. Foreign workers can also become union members, and in the past the union did defend their interests too. *“We primarily strived to improve their living conditions, which had been very poor. For instance, we proposed the introduction of the directive stipulating the minimum living conditions. Now it is clear what a worker is entitled to if he lives and works here. In other words, if the employer provides the lodgings, there are certain sanitary and technical standards that need to be met. In this, we copied one ex-Yugoslav document. ‘The worker must be ensured....’ The world has not changed much.” (O.K. 13).*

In general, in the opinion of the trade union representative, so far there has been no need for any long-term strategy for organizing precarious workers. The trade union mainly treats them as any other union member. *“I’d say that it comes down to a kind of general effort to regulate their status. If precarious workers [in Slovenia] are primarily posted workers, then the issue is regulated within the legislative framework. Let them implement what was written down [in the law]. The demands in the European directive are clear. At any rate, these workers are employed by Slovenian companies. They have employment contracts, either fixed or open-ended, but in fact there is no any essential difference.”* (O.K., 14).

**Chart 4: Trade union strategies vis-à-vis precarious employment: construction sector**



The trade union does not have people who are specifically responsible for precarious workers. They cooperate with the Slovenian Association of Free Trade Unions which has several people working in the “migrant’s office” (which is financed from other sources) and foreigners working in the construction sector may turn to them.

**Trade union instruments to implement strategies**

Generally, the Trade Union of Workers of the Construction Sector of Slovenia, as a representative union for the construction sector and as a member of the Slovenian Association of Free Trade Unions, takes part in the preparation of the legislation and in the social dialogue. *“The legislation is a broad framework, but inside it there is a need for social dialogue ... by sectors and by companies, to resolve certain issues.”* (O.K., 5) *“The social dialogue is in fact a kind of delicate mechanism which enables faster response than the legislation. The legislation is dependent on politics, and politics has its own views and interests.”* (O.K., 21).

**Table 8 Trade union instruments to implement strategies: construction sector**

Category	Target groups of union action	Instruments
Information	<b>Precarious workers, migrant workers (“The Invisible Workers of the World”), NGOs</b>	<b>Informal campaigns, service-oriented instruments, individual empowerment</b>
	Precarious workers	Identity politics
	<b>Public</b>	<b>Media</b>
	Public, employers, other trade unions	Shaping benchmarks on employment standards
Consultation	Precarious workers	Services for empowerment (via ZSSS)
	Government, employers	Consultation and advise on legislation
Negotiation	<b>Government, employers, other unions</b>	<b>Economic and Social Council: negotiations concerning legislation (via.- ZSSS)</b>
	<b>Employers</b>	<b>Collective bargaining</b>
Union organizing and industrial action	<b>Precarious workers</b>	<b>Litigation</b>
	Precarious workers, the public	Organization (via ZSSS)
	Precarious workers, other unions	(mobilization is insignificant)

The trade union takes care of its members primarily by ensuring the implementation of the collective agreement which sets out the rights and obligations that are more favourable for workers than those in the law. *“It is the essential component. In addition, we provide help in case of problems, if they need help, in case of dismissals, violations of rights and the like.”* (O.K., 10)

A serious problem for the construction sector is presented by other forms of work that are regulated by civil law (non-LC). These are issues that are not covered by labour relations laws or collective agreements. This could be partly solved by implementing the provision about economically dependent workers, but it is not fully defined yet.

An important role should be played by various state bodies, primarily inspectorates, which should perform stricter control of the implementation of law and should sanction violations.

Not many precarious workers are trade union members. The problem is that they are *“uninformed, and above all, they do not want to make trouble for the employer – to make their situation worse in some way. If they join the trade union, it’s without the knowledge of the employer. It means that they pay the membership fee from their own pocket, using payment forms, although with others it is arranged in such a way that the fee is taken off from the wage, that is, the employer is obliged to pay the fee from the worker’s wage. So, how do they see the union? In many cases, they think they don’t need it, as long as everything is okay. But when they have problems, they come to us. But, you know, we too have some requirements, similar to, say, insurance companies. You can’t go to the insurance company only after you crashed your car, you must go earlier. Insurance covers potential events, not concluded events. But we don’t turn down anyone.”* (O.K., 15).

The problem occurs when they need to provide a lawyer for a worker and pay the legal fee, especially in the case of lawsuits lasting several years. Most workers can hardly afford it unless they have been union members for some time.

There have been no special initiatives within the union towards organizing precarious workers.

The union representative thinks that *“the employers organized within the chambers do not encourage precarious work. Those who encourage it are nowhere to be found, they are not members of employers’ organizations. That is a problem. Not those who are around, but those who work in silence, in the background, do their work and couldn’t care less about what we say and what we demand.”* (O.K.,19)

The Trade Union of the Construction Workers of Slovenia cooperates with various institutions, the Association of Free Trade Unions, NGOs and the like, including the autonomous initiative of migrant workers in Slovenia called *“The Invisible Workers of the World,”* who unfortunately really *“became invisible because the initiative somehow died out.”* (O.K.,15). Indeed, that cooperation was quite fruitful. *“We exchanged opinions, pointed out problems, along the lines of ‘what did you establish and how did you resolve it?’ Through them we also had direct contact with migrant workers who were coping with various issues. So we had authentic first-hand information.”* (O.K.,15)

### Collective bargaining

The problems encountered by the trade union are also connected with the fact that the Chamber of Commerce and Industry of Slovenia and the Slovenian Employers Association (ZDS) withdrew from the collective agreement in the construction sector in August 2013.<sup>7</sup> The withdrawal was a result of the conclusion by both employer organizations that the collective agreement *“largely deviates from the standards set by law, because it ensures the scope of rights which the employers were able to grant in 2004. Since the Collective agreement for the construction sector is not binding on all employers in the sector, the companies which observe the provisions therein are highly disadvantaged compared to all other companies, i.e. competitors in the sector which are not obliged to observe the provisions in the Collective Agreement.”* (IZS – Inženirska zbornica Slovenije).

On the other hand, the representative of both workers and employers would like to see a collective agreement that would be binding on all employers in the sector. *“As regards the*

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<sup>7</sup> *“There must be some framework of operation stipulated by the law on minimal wage and the collective agreement, which at the moment does not exist but right now we negotiate it. It is a difficult process, the outcome is still uncertain, but I hope that we will put it together within two months from now. There are business agreements and that’s it.”* (O.K.,10)

*extension of its applicability, it is our and employers' common initiative, because we all have the same problems. Our problem is that it is not binding on all our members. Their problem is that the collective agreement offers something more than the law and that, as a consequence, they face unfair competition. Those who are members of the association are obliged, at least formally as signatories to the agreement, to observe the agreed rules, but those who are not members do not have the same obligation."* (O.K.,18)

## Joint initiatives

As a result, the unions and the employers launched a joint initiative with the Economic and Social Council to amend the law regulating collective agreements. The law provides for the option of extending the applicability of the collective agreement (Article 12) to all employers in the sector if members of the representative employers' organization employ at least 50% of the sector workforce. However, in the case of the construction sector, the two associations representing employers (i.e. the Association of Employers in Construction and the Commercial Chamber of Construction and Industry) cover a mere 25% of employees in the sector. That means that they cannot meet the current legal requirements to extend the applicability of the agreement, which can be a serious problem, since those who are not signatories to the collective agreement are not motivated to grant more rights. *"But if the coverage is extended, then it would be quite a different story ... Another absurdity is that we can have members in one company, we can even have a 100% membership there, but the collective agreement is not applicable because their employer is not a member of the Chamber or employers' association. It's what we've been trying to change recently."* (O.K.,5)

The ensuring of high working standards through collective agreements also causes a paradox. *"I'd say just the opposite, that is, the more beneficial for the workers the collective agreement is, the more precarious workers we have. Because those who are covered by the collective agreement are too expensive for the employers, so they have to find some other, cheaper alternative. ... Whatever the case, it is a paradox. A good collective agreement precipitates the precarious work process."* (O.K., 19)

The Trade Union of the Construction Workers, as an EFBWW member, conducts a campaign against bogus companies, so-called letterbox companies, which serve as a link to form a chain of companies.

*"At this moment, we negotiate with the government about the issue of A1 forms. It is a very concrete issue. The law requires from the employer to pay taxes and contributions before employing a posted worker. The Health Insurance Institute of Slovenia (ZZZS) endorses A1 forms without checking the employer, arguing that they do not have access to the database, so they simply put a stamp on every form. Then you discover that the company has not*

*submitted the balance sheet for three years, but the ZZZS endorsed all the forms anyway, so the employer was able to send workers abroad. These are concrete issues. At the moment we are negotiating with the Ministry of Labour, Family and Social Affairs, the Ministry of Health and the Ministry of Finance, to regulate this issue.” (O.K., 16).*

In addition, the union has recently proposed that Slovenia should sign the convention on public procurements. The convention, among other things, stipulates that the government should ensure labour standards and payments when issuing public tenders. *“The ratification of this convention would cover 60% to 70% of all public tenders and they are obliged to observe the collective agreement. In fact, the result would be the same as if the law on collective agreement was amended, but it will take some time.” (O.K., 16).*

## Conclusion

The main form of precarious work within the construction sector is work under fixed-term contracts of employment (LC) and self-employment (non-LC). A large problem arises from other types of work arrangements which are regulated by civil law and are therefore not covered by labour relations laws or the collective agreement.

The main goal of the trade union is to equalize the situation of precarious workers with that of the full-time employees in the construction sector, i.e. to eliminate precarious work. The strategy is emphatically inclusive, since precarious workers are treated by the union “as any other worker.”

The main instruments used to achieve this goal are collective bargaining, legislative pressures (through the Economic and Social Council, i.e. the ZSSS representatives therein) and legal assistance to precarious workers. Since agencies which “lend” workers to various companies are not signatories to the three collective agreements within the sector, the complete equalization of precarious workers with other employees, in terms of salaries, working time and other conditions, is very difficult.

# TEMPORARY AGENCY WORK (TAW)

In terms of the number of employees, during the post-crisis period the “provision of temporary workforce” radically increased. According to the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ), in 2009 the sector providing temporary workforce had 9,898 employees (of these, 1,373 were regular, full-time employees, and 8,525 were fixed-time employees), compared to 15,918 workers in 2013 (7,518 permanent employees, and 8,400 fixed-term employees).

The data by the Statistical Office of the RS also clearly point to the growing trend, but in general – because of the new data collection method – the Statistical Office’s data for the period preceding 2013 should be interpreted with some caution. The employers’ representative – the Association of Temporary Work Agencies (ZAZ), expressed some reservations concerning data from the Ministry of Labour, Family and Social Affairs. They stated that not all of the registered agencies deal exclusively with the provision of temporary workforce, but the Ministry probably does not take into account that fact so in their opinion, the more correct number would be 10,000 to 12,000 employees. We should also draw attention here to the report by CIETT (The International Confederation of Private Employment Services) for 2013. According to CIETT (2014), the number of employees in this sector in Slovenia was 211,200, which is the estimation that largely exceeds statistical data and cannot be explained even if we take into account student work and other similar kinds of work. *If we take that the approximate number of employees in this sector is 12,000, that would amount to 1.5% of the total number of workers in Slovenia.*

The statistical data show that during the period 2009-2013, revenues in this sector increased by 25%. In 2009, the revenues sharply decreased compared to 2008, but the decline was followed by a quick recovery. As a representative of ZAZ commented, good companies (they do not cooperate with poorly performing companies because of the risk of payment failures) quickly recovered after the crisis, they grow fast and with them agency work too.

The laws that had a large influence on the sector were the new Employment Relationship Act (ZDR-1, Uradni list 21/2013), the Labour Market Regulation Act (ZUTD-C, Uradni list 100/2013) and the Rules on pursuing the activity of providing labour for user companies (Uradni list 15/2014).

The first serious change was the introduction of the quota for posted workers, whose number cannot exceed 25% of the total number of employees in the user company. However, the quota may be exceeded if the employees are employed under an open-ended contract or if the collective agreement for the sector stipulates otherwise. (So far, the only such exception was the collective agreement for the textile, leather and leather-processing workers, which raised the quota to 50 percent).

The first direct effect of the legal restriction on the number of posted workers was an increase in the number of open-ended contracts within employment agencies, as evident

from the MDDSZ data and the *Report by the working group monitoring the impact of changes in the regulation of labour market in 2013* (Kajzer et al., 2014).

The other big change was the equalization of agency workers with regular employees, meaning that all collective agreement provisions and general acts concerning salaries, health protection, working time, vacations and holidays apply to agency workers too. To implement these provisions in practice, the law introduced the instrument that stipulates co-responsibility of the user company in observing legal obligations arising from the law, collective agreements and general acts. The representative of ZAZ pointed out that precisely because of that provision several of their customers decided to stop cooperation with temporary employment agencies.

The third big change was stricter requirements for the entry of work agencies into the register, as laid out in Article 168 and 169 of the Labour Market Regulation Act (ZUTD-C) and defined in detail in the MDDSZ's rule book. Article 164 of the ZUTD-C, which came into effect on March 1, 2014 stipulates that the temporary employment agency should submit a 30,000 euro bank guarantee every three years.<sup>8</sup> This measure in particular reversed the rapidly growing trend and radically reduced the number of agencies. According to MDDSZ data, in 2009 there were 152 temporary employment agencies; in 2013 their number rose to 215, but at the time of writing this report only 95 temporary employment agencies remain registered in Slovenia.

Among the largest agencies are three international companies: Adecco, Manpower and Trenkwalder. In the group of large agencies with more than 250 employees, four are owned by Slovenian private entities. Papir servis and Set, part of the Krater group, are social enterprises (employing people with disabilities); their primary line of business is paper processing and print services; they registered as temporary employment agencies recently. Agencija M servis is the largest provider of temporary work for students. Naton, established in 1991, has offices in Croatia and Serbia and it works for customers in Hungary, Austria, Germany and Italy.

During the processes described above, larger agencies consolidated their positions. A comparison of the revenues of the five largest agencies with that of the sector as a whole in 2013 shows that slightly more than two thirds of the total revenue is generated by the largest agencies. Adecco, the largest temporary employment agency in Slovenia, covers one third of the entire sector activity.

Of the total number of employees, 51% work for the largest agencies. Most agency workers have completed IV. or V. level education; 36% of agency workers have completed III. or lower level education. Only in Naton, the educational attainment conspicuously tends towards the lowest level.

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<sup>8</sup> MDDSZ instructions available at [http://www.mddsz.gov.si/si/delovna\\_podrocja/delovna\\_razmerja\\_in\\_pravice\\_iz\\_dela/delovna\\_razmerja/zagotavljanje\\_dela\\_delavcev\\_uporabniku/](http://www.mddsz.gov.si/si/delovna_podrocja/delovna_razmerja_in_pravice_iz_dela/delovna_razmerja/zagotavljanje_dela_delavcev_uporabniku/) (last accessed on December 10, 2015).

The biggest problem in this sector pointed out by all interviewees, are unregistered employment agencies. The labour inspectorate identified 45 such instances of violation in 2013 (IRSD, s. d.).

### The most widespread atypical work arrangements within the sector

The entire workforce in the sector dealing with the “provision of temporary workforce” is indeed involved in atypical employment arrangements, save for a small group of employees who perform managing, organizational and administrative tasks; they too are included in the statistical data.

Agency workers may work under open-ended or fixed-term contracts and/or part time contracts of employment (all of them LC). According to the Statistical Office data, only a small number of agency workers have part-time contracts of employment – 2.7% in 2013. On the other hand, fixed-term contracts of employment were quite widespread in the past, but their number radically declined practically overnight following the legislative amendments, i.e. the introduction of the quota. As stated in the above-mentioned report by the National Council of the RS, “in 2012, of all the workers provided by agencies, 88% were fixed-term workers and only 12% had open-ended contracts of employment. In 2013, the ratio of fixed-term to open-ended contracts of employment among agency workers was more balanced – 52% of workers had fixed-term work contracts of employment, and 48% had open-ended contracts of employment.” (IRSD, s. d.: 30) The employers’ representative predicts that the number of open-ended contracts will grow and that within a few years it will be in line with the “Slovenian average.”

Viewed from the perspective of job security, this means that in the past, contracts of employment mainly overlapped with the period for which workers were posted with the user company. Following the legislative changes, the temporary employment agencies increased the number of open-ended contracts of employment, but this does not mean that the agency will ensure job for the worker once the contract with the user company is terminated. If the agency cannot find a new job for a worker, it will “undertake all the necessary procedures” to terminate the work contract. Nevertheless, the change in the law resulted in more “permanent” workers working for employment agencies. In the words of the employers’ representative, *“indeed we have regular workers with open-ended contracts who are always rotated, meaning that the duration of employment is no longer limited to the duration of individual posting.”* All agency workers, on the other hand, *“feel better if they have an open-ended contract for a slightly less insecure job position, than a fixed-termed contract.”* (ZAZ, interview, p. 8) Agency workers can therefore be *de jure* employed under the open-ended contract of employment, but *de facto* their job and social security are still lower than if they were employed directly by the user company.<sup>9</sup>

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<sup>9</sup> *“If we talk about the uncertainty of this form of employment, those workers are aware that they will be the first to go if the user takes some measures. Certain rules in the collective agreement setting the criteria for the identification of redundant workers will probably not apply to them, they will probably go away first. The question is whether the agency can secure another work for him, or he would find himself in a dismissal procedure, the same as what would happen at the user company. [...] It may happen, that is, people feel okay if*

**Table 9 Dimensions of precariousness (2014): agency work sector (N78.200)**

		Quality of working conditions dimension						
Regulated by:			Incidence	Wages	Working time	Job security	Social security	Representation (voice)
The formal employment status dimension	Labour Code (contract of employment)	FT open-ended contract	7.518 47.2%*	++	++	++	++	+
		Fixed-term contract	8400 52.8%*		+	-	+	-
		Part-time contract	/ 2.7 %**	47,6%*****				
	Non Labour Code	Self-employment, bogus self-employment	0 0%***					
		Other forms of work	NA					

\* The share of a given form of employment in all employees in the sector according to the Ministry of Labour, Family, Social Affairs and Equal Opportunities data for the year 2013.

\*\* The share of a given form of employment in total employment in the sector according to the LFS data for the year 2013.

\*\*\* The share of self-employment in total employment in the sector according to the register data.

\*\*\*\* The share of workers receiving minimum wage in all employees working for legal entities in the sector according to the register data. Only employees of legal persons are included (i.e. employees of natural persons are not included). Data refer to the whole N78 NACE group.

\*\*\*\*\* Share of employees working on contract of employment receiving a monthly income equal or lower than 789,15 eur (i. e. the legally stipulated value of minimum wage for a full time employees working on contract of employment in 2014) in all employees according to the register data. Both employees of legal persons and employees of natural persons are included.

SOURCES: SURS, AJPES, MDSSZ, FURS.

As regards salaries, working time, holidays and leaves, health and safety at workplace, agency workers enjoy the same terms and conditions as user company employees. As the employers' representative stated, in those respects *"there are no differences whatsoever between agency employees and user company employees."* (ZAZ, interview, p. 2.) The user company cannot make advantage of agency work to reduce its labour costs, but the hiring of agency workers, in the words of the employers' representative, is still a useful option, because it is the agency that recruits workers, tests them and later employs them. Above all, by hiring agency workers companies are in a position to adapt to the "business needs" more easily, once they no longer need a specific type of workers. This is the reason why the scope of agency work is still on the rise, although the legislative changes imposed quite a number of restrictions on the provision and hiring of agency workers.

The trade union representative had positive comments on the latest legislative changes. *"I think that a lot was done when their situation was regulated by law in terms of pay, that is, of treatment and rights which should correspond to their job positions. That is what these*

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*they can settle down, work and feel safe. But in this case, it may happen that you are walked from one company to another, so to say."* (ZSSS, interview, p. 4.)

*workers need most, maximum protection and complete equalization with other workers.”*  
(ZSSS, interview, p. 6.)

However, the union representative who inspected several agency work contracts in response to agency workers' complaints had to conclude that agency workers sometimes received lower salaries because the agency and the user company assigned them to a lower pay grade, although they performed work that qualified for a higher pay grade.

*“It is not legally possible today. Because job positions in the user companies are systematized, and the agency, as the employer, employs the worker for a job position that he should take there. If there is supervision, abuse is not possible. But if there is no supervision, then it can be done, and it is done. For instance, job positions that belong to the pay grade 4 at least, perhaps 5, in the electrical and metal industry where collective agreements are not at the bottom in terms of pay grades, and where the lowest salary corresponds to the minimum salary. There, the work is performed in shifts with many bonuses, so if someone is categorized into pay grade 2, and I had such examples, where the salary is roughly 150 to 200 euros lower, the difference amounts to all the bonuses the worker holding such a job position would have. If the starting point is the basic salary of 520 euros, or 650 or 700 euros, that discrepancy makes a difference in the end.”*

The union representative's conclusion has been corroborated by statistical data. In the largest five agencies, the majority of agency workers (87 percent) have completed educational levels IV and V, or even higher. The SURS data on salaries show that the net income in the temporary employment agency sector (NACE rev. 2, group N78.200) in January 2015 was among the three lowest sector salaries in Slovenia. Since employees in the five largest agencies account for at least one half of all agency workers in Slovenia, it is possible to conclude that the salaries of agency workers do not correspond to their average educational level.

Viewed from the perspective of trade union organization, agency workers are supposed to have the same rights as workers employed at user companies. There is no trade union of agency workers in Slovenia nor is there a collective agreement for this sector.

### **“Strategies” and the use of special approaches/instruments**

The employers have organized themselves into the Association of Employment Agencies (ZAZ) in 2001. Twenty agencies are the founders of the association. In the words of their representative, the association changed in accordance with the changes in the legislation (ZAZ, interview, p. 4). Initially, various companies were its members – providers of HR services, salary calculation services, providers of student work, of temporary work, companies searching and selecting cadres and so on. The number of members later reduced to 13, and over the past six years, the main activity of the association members has been provision of work to user companies and student services. Many members of the association have been dealing in this segment ever since the beginning.

The association does not seek public exposure but it cooperates with the media and the

government in an effort to “help with the establishment of the level of service and workers’ security” (ZAZ, interview, p. 5). For example, in 2012, when the Ministry of Labour, Family and Social Affairs was led by a member of the then centre-right coalition, they took part in the preparation of legislative amendments pertaining to their line of business.

*“[...] when we had the opportunity and we are thankful to those who at that time understood that it is best to learn from us how we see this segment of work. We presented it, in our opinion, in a constructive manner, with all its advantages and disadvantages. We also had trust of our social partners, the government and, after all, the trade unions too, so we jointly found a solution at that time and today, two years later, it still looks like a good one.”* (ZAZ, interview, p. 5.)

The members of the association also join other employers’ associations.

*“There, we most of all draw attention to the specific aspect of agency work, lest they forget that there are thousands of other people to be taken into account when a new solution is introduced into labour legislation – because it’s still not in the genes of the Slovenian legislation to take care of them, in terms of equal salaries and other rights. We take care that it doesn’t slip from their minds, as it could cause deficits at the time of implementation.”* (ZAZ, interview, p. 4.)

In principle, they are not concerned with the issues of student work; when the law regulating that segment was amended (towards higher taxation of student work), they gave their opinion but did not take further action because students have their own organization which they think should be responsible for such matters.

Agency workers are not organized into a trade union or any other kind of organization, but this does not mean that other trade unions ignore their problems. The most active organization in this sense is the Slovenian Association of Free Trade Unions – issues relating to agency work were on its agenda when discussing legislative amendments and it also frequently publicly exposes the instances of abuse of agency work. It established a separate organization, the Slovenian Free Trade Union, which can be joined by workers who cannot join other trade unions, and quite a large number of agency workers spontaneously did so.<sup>10</sup>

Much like the Association of Employment Agencies, the Association of Free Trade Unions too does not have a short or long-term strategy concerning agency work. Generally speaking, as their representative said, it is difficult to speak about such strategy *“because there are as many strategies as trade unions. We have twenty three trade unions and roughly the same number of strategies. It is similar to what they have in other umbrella organizations.”* The trade union succeeded in achieving certain changes in the area of agency work, but *“unfortunately, thanks to the personal traits of a few people rather than any vision or strategy.”* (ZSSS, interview, p. 6.)

The Association of Free Trade Unions cooperates with the employers and the legislature within the framework of tripartite negotiations. It also cooperates with NGOs in various projects, but such cooperation lasts only as long as the project in question and usually involves exchange of experiences and preparation of written materials. Cooperation with

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<sup>10</sup> We interviewed two persons: a representative of the Slovenian Free Trade Union and a member of the trade union confederation which is unofficially “responsible” for agency work.

foreign organizations is significant, for example with ETUC which provided important information on a new form of employment.

*“Such an example is mini jobs, when we invited our German colleagues and they told us to stop kidding, they’ve had mini jobs for fifteen years but they have destroyed the market balance and produced poverty. If we wore blinkers and looked only around Slovenia, we would already have mini jobs because we wouldn’t have a comparison. We have many connections with agency workers when we negotiated the new ZUTD in 2013. At that time we had a lot of discussion in our house, what to do with them, have a separate collective agreement or not. The debate is still ongoing, because we have two camps.” (ZSSS, interview, p. 7.)*

When the preparations for the legislative amendments began in 2013, the trade union for the first time launched a systematic data collection campaign among their members, seeking to establish which Slovenian companies hired agency workers and to what extent. The findings took them by surprise when they realized how widespread the practice was. Initially, taking certain Austrian sectors as a reference, they proposed the 10% quota of agency workers in user companies, but eventually, following negotiations, the quota was set at 25%.

**Table 10 Trade union actions concerning agency work sector**

Category	Target groups of union action	Instruments
Information	Precarious workers	Informal campaigns, service-oriented instruments, individual empowerment
	Precarious workers	Identity politics
	<b>Public</b>	<b>Media</b>
	Public, employers, other trade unions	Shaping benchmarks on employment standards
Consultation	<b>Precarious workers</b>	<b>Services for empowerment (via ZSSS and other unions)</b>
	Government, employers	<i>Consultations and advise on legislation are present as a part/phase of negotiations on Economic and Social Council</i>
Negotiation	<b>Government, employers, other unions</b>	<b>Economic and Social Council: negotiations concerning legislation</b>
	Employers	Collective bargaining
Union organizing and industrial action	<b>Precarious workers</b>	<b>Litigation</b>
	Precarious workers, the public	Organization (via ZSSS)
	<b>Precarious workers, other unions</b>	<b>mobilization – strike in port Koper</b>

The negotiating partners were the Association of Employment Agencies, trade unions and the Ministry of Labour, Family and Social Affairs. An external incentive that brought the three parties to the negotiation table was the strike of dock workers working for 40 employers that provide port services for the Luka Koper. Their working conditions and salaries appalled the public (let us mention just in passing that their situation has not changed much to the present day). In the words of trade union representative, *“every legislative initiative needs an impulse [...] some touching story, so that everybody [can] say, but now we really have to do something.” (ZSSS, interview, p. 9.)*

Furthermore, the interests of all negotiating parties coincided. The government was under public pressure. The trade unions wanted higher salaries, better working conditions and

higher security for agency workers. The association of employment agencies, which brings together the largest and large agencies, wanted to increase its market share and reduce competition, so they were willing to make compromises. Everyone fulfilled their goals in part. The government regulated the sector that had been quite chaotic and reduced the public pressure. The trade unions achieved the desired equalization of agency workers and permanent workers in terms of all important rights, and the association of employment agencies saw the reduction of the number of registered agencies by slightly more than one half.

The two social partners greatly differ between themselves in their approaches and use of special instruments. The trade union organizes agency workers (with varying success), initiates legal actions, exerts political pressure, launches media campaigns, and provides services and information for agency workers. The basic strategy used by the association of employment agencies is the representation of agencies' interests and participation in legislative debates that pertain to their interests. They also take part in professional discussions because they *"think that the real usefulness of agency work is still underrated, despite positive shifts."* (ZAZ, interview, p. 5.) They also cooperate with the media. Neither of the social partners has analytical departments and they do not collect data or monitor statistics pertaining to the agency sector.

At the time of this survey, there were no joint activities underway.

#### Trade unions: organization/mobilization of agency workers

The trade union tries to organize agency workers, but according to the union representative, they are still unable to do it systematically. It is still a great problem for them to organize workers in an organisation with 2,000 or more employees who perform work in extremely diverse segments and locations, and it is a question whether such an undertaking would be sensible at all. If agency workers have the same rights as permanent employees, it would be sensible for them to join trade union organizations in the companies for which they work.

*"The trade union, which is in contact with them daily, can do most for them. After all, agency workers also come in contact with the union and the issues can be most easily resolved in that way. [...] It is difficult to expect, at least for the time being, that agency workers, meaning workers who work for various user companies, would organize themselves into a common trade union, and that they would harmonize their operation. The conditions truly vary so much that in such a case it would be individual operations."* (ZSSS, interview, p. 5.)

*"After all, the trade union in the company should be interested in recruiting agency workers, because of financial strength and because of potential social dumping [...] If you do that, I am convinced that the users would realize that it doesn't pay off to hire agency workers."* (ZSSS, interview, p. 6.)

*“In a way, an agency worker [...] must not be [in the eyes of a trade union] anything else or different than other workers [trade union members] who we will need if we want to take an action.” (ZSSS, interview, p. 11.)*

Dispersion of agency workers is not the only obstacle. Their apprehensions and hesitations – both more pronounced than among permanent employees, as observed by the union representative – also obstruct their organization. This especially comes to light when they have to tell to their employer that they have joined the trade union. As a matter of fact, the majority of agency workers within the Free Trade Unions are “anonymous” members, meaning that they do not want to disclose their membership to the employer, sending in this way the message that they do not feel safe.

### Employers: hiring non-standard work

The employers’ representative described agency work as a necessity that needs to be strictly regulated.

*“Agency work, I strongly believe it, is useful and no one would do it unless convinced that we give something to people and to the Slovenian companies that employ our workers. Thanks god, I say, that someone wants to do it and in such a way. Of course, the issue is delicate, even more so because we deal with people. [...] So it is right that the activity is regulated. In fact, if we compare ourselves with 150,000 other employers, those 90 agencies are the most controlled employers in Slovenia. In a way, we want to be a controlled flexibility. That’s what we can offer in the circumstances that prevail in Slovenia, Europe, globally, that is to say, so that people can get a more certain job in times that are not so certain for any company or country, since their situation is not any better than that of the companies.” (ZAZ, interview, p. 9.)*

### Joint initiatives

At the moment, there are no joint initiatives or activities undertaken by social partners. The last joint activity took place when the legislative amendments in 2013 were negotiated. The employers’ representative thinks that they need to wait a while to see the impact of the latest legislative changes which may create the need for joint action. The trade union representatives are of the opinion that the main action now has to be taken by trade unions at the company level, which should incorporate agency workers and perform control over the implementation of the law.

### Collective bargaining

The sector providing temporary workforce does not have its own collective agreement. Both social partners agreed that there is no need for collective agreement in this sector. Moreover, the trade union representatives assessed that such an agreement could be detrimental, as was the case in the Netherlands. Once the differences between agency

workers and permanent workers have been eliminated by law, and with the provisions of collective agreements and internal acts of the user company now being applicable to agency workers too, there is no need for a separate collective agreement pertaining to agency work. Collective agreements include a fixed framework of salary ranges which set the lowest basic salary in the sector. A separate collective agreement for agency workers would need to take as the point of departure the sectors with lowest salaries, such as textile industry, construction works, trade and the like. Accordingly, agency workers working for companies in other sectors with higher salaries would be disadvantaged compared to permanent employees. It is the reason why a separate collective agreement would be harmful, since it is *“most logical and normal that an agency worker has the same rights...”* (ZSSS interview, p. 7) as other workers in the company.

The trade union representatives also pointed out that their views do not necessarily correspond to the ones held by ZSSS. Two camps were formed within the ZSSS – one supports and the other rejects a separate collective agreement for agency workers.

The employers’ representative also observed that temporary employment agencies would be also interested in solutions different from those found in ZDR 1. However, he said that they are still adapting to the latest changes and that they should wait to see what further challenges will crop up within this sector.

#### Other initiatives

ZAZ's wish is to see employment agencies eligible to participate in various tenders pertaining to trainings, education and apprenticeship, through which the government occasionally helps the employers, in cooperation with the Employment Service of Slovenia, to boost employment. They are convinced that employment agencies would be up to such tasks, because they are most familiar with the needs of employers in Slovenia.

#### Conclusion

The main type of precarious work in the agency work sector is agency work itself. It takes the form of fixed-term and open-ended contracts of employment (LC).

Trade unions have no strategies for this sector.

Trade Unions include the issues of agency work in their negotiation through the Economic and Social Council and draw attention to various instance of abuse of agency work. Before the 2013 legislative amendments (ZDR-1), the dock workers in Luka Koper (working for 40 employers) staged a strike which triggered a debate about new legislation and a better regulation of agency work.

# COMPARATIVE ANALYSIS OF SECTORAL DEVELOPMENTS

Table 11 Slovenia: comparative overview of precarious work and social partner responses in five sectors

Sector	Main development since 2008			Strategies: precarious employment		
	LM segmentation; trends/ why?	Forms	Dimensions	Unions	Employers	Others/specific
Construction	Widespread (before the crisis)	Fixed-term (LC); self-employment; civil contracts (non-labour code)	Low wages, job insecurity	Inclusion	NA	Negotiations at the ESC
Health	Moderate; LF shortage due to austerity measures; public sector	Part time	Unfavourable working time; unpaid overtime (including FT employees); job and social insecurity	Inclusion	Inclusion	Public pressures, political lobbying, mobilization; negotiations at the ESC
Metal (the metal products industry, the electrical industry and metals and foundries)	Moderate; export sector	Agency work; fixed-term (LC)	In spite of new legal regulations: Lower wages compared to employees in SER, higher working time flexibility, job and social insecurity	Inclusion + separation	Inclusion	Negotiation at the ESC; collective bargaining; litigation; educational sessions concerning precarity (target are workers in SER)
Retail	Widespread	Part time and fixed term – both contract of employment (LC) and student work (non-labour code)	Low wages, unfavourable working time; job and social insecurity;	Inclusion + separation	Part-time work under employment contract is understood as regular, standard form of employment in the sector	TU public pressures, negotiations at the ESC + collective bargaining
TAW	Yes (part of segmentation)	FT and fixed term contracts (significant increase of FT TAW workers after the labour law changes in 2013)	Quality of all working conditions lower compared to the workers on SER, especially TAW workers on fixed-term contracts	No strategies.	Large TAW employers argue for 'controlled flexibility'	Negotiation concerning legislation at the ESC; adoption of the law - introduction of quota for posted workers; TU mobilization (strike in port Koper)
National level	Yes. (moderate contraction of segmentation within the employed during the crisis due to increase in unemployment)	Fixed-term (including TAW and student work); part time in some sectors (retail, health)	More than one third of LF 'circulate' between unemployment and short term employment (mostly young people)	Inclusion and abolition	reduction	Negotiations at the ESC The labour law changes in 2013 (ZDR-1); Minimum wage increase for 20% in 2010 after the wild-cat strike in Gorenje factory

**Comparison across sectors.** The labour market dualization/polarization is most conspicuous in the construction sector (before the crisis) and the retail sector. In the case of former labour market polarization virtually disappeared during the crisis, but in such a way that work arrangements became precarious for most employees in this sector. The case of the construction sector is a good illustration of a *negative* outcome of labour market polarization in extreme circumstances: all employees, regardless of their status, become precarious workers.

The common denominators of all forms of precarious work are low wages and uncertainty of employment. However, since our study has established that workers in the sectors analysed here who formally enjoy more stable forms of employment also receive low wages, it could be said that if the wage criterion is applied, all full-time employees working for a minimum wage are in a precarious position. The sector that has the largest number of low-paid regular employees is the temporary agency sector, but low wages are quite often found in the construction and retail sectors as well.

Taking the extent of precarious work as a criterion, the sectors analysed here can be divided into three groups. The first one, with the lowest level of precarization, comprises the health sector (mainly public health institutions), and the metal sector (the main branches of the economically most dynamic, or export-oriented sector). The available indicators suggest that precarious work is least present in the health sector, which is still dominated by “standard” employment arrangements and also boasts the smallest number of employees on a minimum wage. On the other hand, the share of part-time employees within the health sector is somewhat higher than in most other sectors (generally it is a contract of employment – LC). Something similar could be said about the metal sector, which is more or less comparable to the health sector in terms of the share of fix-term employment contracts, minimum wages and self-employed persons, deviating only with regard to the use of agency work.

The second group is characterized by a higher level of precarious work and it comprises the two sectors mainly oriented towards the domestic market, i.e. the retail and the construction sector. The two are comparable both in terms of temporary employees and the percentage of employees on minimum wage. The main difference in regard to temporary work is that the construction sector mainly has fixed-term contracts of employment (LCs), while in the retail sector student work accounts for half of the temporary jobs (non-LC). The retail sector has the largest number of part-time employees (LC+non-LC), while the number of self-employed persons is the largest in the construction sector.

The third group comprises temporary work agencies. The available data suggest that precarious work is most widespread within this sector. Despite the changes introduced after 2013, it still has the largest percentage of employees on fixed-term contracts of employment (LC) and employees working on minimum wage. On the other hand, there are no self-employed persons in this sector – and by definition – no student work. The share of part-time arrangements in this sector is low (comparable only to that in the metal sector).

**Features specific to Slovenia.** Our comparison of the five sectors showed that during the crisis the construction and metal sectors saw the biggest decline in the number of employees. However, although the layoffs affected all employees, the brunt of the crisis was borne by employees with precarious employment arrangements. The divide between the full-time employees and fixed-term employees in these two sectors was apparently reduced. In the metal sector, workers who had previously worked under fixed-term contracts of employment became unemployed, while in the construction sector the most exposed were migrant workers most of whom probably left the country.

Our study therefore suggests that in certain sectors of the Slovenian economy the labour market was strongly polarized even before the outburst of the crisis, and that during the crisis the polarization reduced, or rather “transformed” into unemployment.

Before the outburst of the crisis, in 2005, when the unemployment rate was relatively low (6.5%), the share of temporary workers (both LC and non-LC) within the entire workforce (active population) was high (13.8%). Their relative share further rose during the economic upswing, and in 2007, when the economic growth was at its highest in the entire transition period, it reached 14.8%, but with the shrinking of economic activity, the relative share of temporary workers in labour force began to decline and during the last two years of the period analysed here it amounted to approx. 12.2%. The drop of the relative share in temporary arrangements can be attributed mainly to the decline in student work (temporary, non-LC) as the volume of student work decreased by forty percent between 2008 and 2014. The share of student work in the entire labour force decreased by more than one third during this period, i.e. by slightly less than 1.5 percentage points. The share of workers under fixed term contracts of employment (temporary, LC) in the entire workforce declined to a smaller extent and was – with oscillations which more or less reflected the changes in the dynamics of the economic growth – in 2014 by only 0.75 percentage point lower than in 2008. The biggest decline of the relative share was recorded in the category of “standard employment,”<sup>11</sup> i.e. the category comprising regular employees under open-ended contracts (open ended LC), which during the period between 2008 and 2014 shrank by slightly more than 6.7 percentage points. The drop in the categories of temporary employment (LC and non-LC) and standard employment largely contributed to the increase in the share of the unemployed, which peaked in 2013 and then began to decline, although in 2014 it was still higher than in 2008 by slightly less than 5.4 percentage points. The share of self-employed persons also increased during the period 2008-2014, by slightly more than 1.9 percentage points. The share of employees on part-time contracts of employment (LC) increased by slightly less than 1 percentage point. Finally, after 2008, the share of unpaid family workers (non-LC) in the labour force increased by slightly less than 1.3 percentage points, while the share of employees in other forms of work arrangements (non-LC) increased by slightly more than 0.3 percentage points.

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<sup>11</sup> Based on the publicly available data it was not possible to pinpoint both precarious categories of employees in employment relations, so we singled out only fixed-term workers. This of course means that the upper category of “standard employment” comprises all “employees in employment relations with the working time shorter than full-time,” who were not simultaneously employed under a fixed-term contract. Put differently, the category of “standard employment” in Table 6 is somewhat inflated.

The figures showing the decline in the share of all types of (LC+non-LC) fixed-term employment arrangements in the total workforce, and of the share of this segment in the total workforce during the crisis, can be interpreted as a trend towards smaller polarization/dualization of the labour market in the segment of dependent employment. However, it is not possible to say that this trend is indicative of de-precarization. These data in fact unequivocally indicate that the share of non-standard forms of employment and consequently the precarization of work in Slovenia have been growing, given that non-standard forms of employment steadily increased before the crisis, during the crisis, and throughout 2014, that is to say, during the year following the “end” of the crisis. However, the two periods mentioned differ importantly. While before 2008 the decrease in the unemployment rate was accompanied with the increase in the share of temporary employees, the period following 2008 was marked by the decline in the share of (dependent) employees, and especially standard employment which transformed into unemployment and partly into self-employment. Here we should also keep in mind that the active population increased during the economic upswing and decreased during the crisis – when those who became disillusioned and stopped seeking formal employment, left the country or retired, thus opting out from the active population – so that in 2014 it was practically the same as in 2005.

Statistical data for the period 2005-2014 indicate that the segmentation of the labour market is characteristic of the entire labour market in Slovenia. Table 12 clearly shows that on the Slovenian labour market one third of the active population (i.e. of the workforce) is composed of persons who are unemployed, work under a temporary work agreement or are self-employed. During the pre-crisis year, 2008, the total share of those three categories in the active population was 28.1%, while in the post-crisis year of 2014 it was 33.4%. Put differently, the strong polarization of the Slovenian labour market further increased after the crisis.

The source of such a relatively strong division on the labour market is the combination of the traditionally highly regulated national labour market on the one hand, and the escalation of competitive pressure on the international (EU) market, on the other. In the context of Slovenia’s accession to the EU and euro zone, i.e. in the situation when competitive pressures were mounting, Slovenian employers were confronted with the strong collectivization of employment relations – the protection of standard forms of employment on the local labour market. Accordingly, the numerical flexibility of their organizations was limited. In such a situation, they attempted to ensure the desired level of competitiveness by increasing the use of functional substitutes for numerical flexibility, primarily resorting to fixed-term employment arrangements (engaging mainly young workers) (Stanojević, 2005). During the crisis period, 2008-2013, and given the increasing unemployment rate and the simultaneous preservation of relatively high levels of non-standard forms of employment, the social consequences of such a strategy aimed at ensuring competitiveness were noted as a serious social problem.

**TABLE 12: TRENDS ON SLOVENIAN LABOUR MARKET**

as % of labour force	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Persons in employment (total employment)	93.5	94.1	95.2	95.6	94.1	92.7	91.8	91.1	89.9	90.3
Unemployed persons	6.5	5.9	4.8	4.4	5.9	7.3	8.2	8.9	10.1	9.7
Employees TOTAL (LC+non-LC)	79.3	78.8	80.1	82.1	78.9	76.8	76.4	76.3	74.7	73.4
Employees in labour relation (LC)	NA	NA	NA	77.3	74.2	71.9	71.7	72.6	70.7	69.8
_Part time employees in labour relation (LC)	NA	NA	NA	2.9	3.5	3.6	3.3	3.6	3.5	3.7
_Temporary employees in labour relation (LC)	NA	NA	NA	9.5	8.3	8.5	9.4	9.4	8.4	8.8
_Employees in labour relation – open ended contracts (LC STANDARD)*	NA	NA	NA	67.9	65.9	63.4	62.4	63.2	62.3	61.1
Employees via student employment office - temporary by default (non-LC)	NA	NA	NA	4	3.6	3.6	3.3	2.8	2.7	2.6
_Part time employees via student employment office - temporary by default (non-LC)	NA	NA	NA	2.5	2.4	2.4	2.4	1.8	1.7	1.7
Employees. other forms of work - temporary by default (non-LC)	NA	NA	NA	0.8	1.1	1.1	1.3	0.9	1.3	1.1
_Part time employees, other forms of work - temporary by default (non-LC)	NA	NA	NA	0.5	0.7	7	0.8	0.6	0.8	0.7
Self-employed (NON-LC)	9.5	10.7	10.6	9.5	10.1	11.4	11.6	11.1	10.8	11.4
Unpaid family workers (NON-LC)	NA	NA	NA	4	5.2	4.5	3.9	3.6	4.3	5.3
Temporary employees (LC+nonLC)	13.8	13.6	14.8	14.3	12.9	13.2	13.8	13	12.3	12.2
Temporary workers (LC+nonLC) + unemployed + self-employed	29.8	30.2	30.2	28.1	28.8	31.9	33.6	33	33.2	33.4
<i>Part time employment as % of total employment EUROSTAT (LC+non-LC)</i>	9	9.2	9.3	9	10.6	11.4	10.4	9.8	10.1	11.2
<i>Temporary employees as % of total number of employees EUROSTAT (LC+non-LC)</i>	17.4	17.2	18.5	17.4	16.4	17.2	18.1	17.1	16.4	16.6

\*Beside workers on full-time open ended contracts of employment »LC STANDARD« category also includes part–time workers with an open ended contract of employment.  
SOURCES: SURS (LFS data), EUROSTAT.

**Social dialog: positive and negative experiences.** As regards the issue of precarious work, our conclusion is that cooperation among social partners in Slovenia was most efficient on the macro level and in some cases quite efficient on the sector level as well. Most problems were noted on the micro level. Owing to the growing competitive pressure, the employers increasingly relied on precarious work, with one consequence of such tactics being a systematic tightening of work regimes. In such circumstances, regular employees began to perceive precarious workers as competitors and consequently focused their attention on the preservation of their own (regular) jobs; with the help of trade union representatives they participate in concession bargaining and, as a result, in the precarization of their own work/jobs.

The biggest problem in the area of precariousness in relation to industrial relations is the weak collectivization of precarious workers' interests. Articulation of their interests is invariably weak. The inclusion of precarious workers in the existing trade unions is non-systematic/occasional, while their self-organization is only marginal. We have established that – concerning precarious work, trade unions confront serious problems. Generally, they encourage the strategy of the inclusion of precarious workers and elimination of precarious work, but they at the same time represent the interests of regular workers who generally see precarious workers as their competitors. Accordingly, some of the interviewed trade union representatives asserted that an obstacle to the implementation of the above mentioned inclusion strategy is presented precisely by regular workers with “safe” employment. In addition, even though trade unions are generally opposed to precarious work arrangements, given the employers' reluctance to use open-ended contracts they have no choice but to accept them as a way of reducing the burden on regular workers. Therefore, the inclusion strategy should also be targeted at regular employees, rather than only precarious workers.

**Restricting precarious work?** In Slovenia, the implicit goal (which sometimes turns into a very explicit one) of trade unions' *strategies is to transform precarious work arrangements into standard employment relations*. The government and the employers are generally not disapproving/are in favour of this goal. Accordingly, the interest organizations – trade unions and employers' association, have been relatively closely involved in the preparation of the new law on employment relations (ZDR-1 of 2013). This law attempted to restrict the use of the most widespread forms of precarious work while liberalizing the dismissal procedure for regular workers (or, put differently, it attempted to increase the level of numerical flexibility of the population working under open-ended contracts of employment); it was a result of the political exchange between the key, organized economic interests on the macro level, that is, within the Economic and Social Council.

The most important negative experience of the attempts to regulate precarious work through industrial relations, including the above-mentioned legal restrictions on precarious work, is the increase in the total share of the most widespread forms of precarious work and unemployed persons. In addition, the typical defining traits of precarious work (low wages, the growing insecurity of employment) are no longer limited to precarious work only but have become characteristic of arrangements that are formally regarded as standard employment.

It seems that the segmentation of the labour market in Slovenia has been increasing despite the explicit legal restrictions on the most widespread forms of precarious work. This suggests that in the wider European context, national policies restricting precarious work – even if based in the laws that are aimed at improving the status of precarious workers and even if aimed at including social partners – have a quite limited effect. Although it is very likely that the post-crisis precarization of employment in Slovenia would have been even more extensive had the mentioned laws not been in place, the fact is that the precarisation of employment in Slovenia (including in the post-crisis period) is on the increase.

In formulating national policy, Slovenia intended to implement the strategy of transforming precarious work into standard employment relations, but (in the best case) it only mitigated precarisation (or rather, it redistributed the burden of precarisation across entire workforce). The said policy did not manage to eliminate the causes of precarization, nor can it do so in the future. It seems that the case of Slovenia suggests that in the context of growing competition (on the unified European market), the causes of precarization are beyond the reach of national policies; the instruments used by these policies cannot eliminate them.

Another problem is that the key means/instruments used in shaping and implementing of the policies of restriction (i.e. redistribution) of precarization in national (CEE) economies are weak. The key “means” available to such policies are the main institutions of collective employment relations – workers’ interest organizations – the trade unions, collective bargaining with employers and social agreements on the macro-level (neo-corporatism).

The problem is that the institutions of collective employment relations were shaped in the context of the economy of demand (some authors denote this as a period of Fordist accumulation). In Slovenia’s case these institutions worked well during the accession process, but later on its context has been radically changed. Slovenia is today a small open economy within the euro zone, whose institutionalized architecture favours the supply-side economic policy. In that new context, collective employment relations have been losing their central role. The new system rests on the principle of cost-saving and structural reforms. Such a system inevitably undermines the role of trade unions and collective negotiations. Or, put differently, it undermines the mainstay of policies aimed at restricting precarization.

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- Zakon o preprečevanju dela in zaposlovanja na črno (ZPDZC-1) [*Prevention of Undeclared Work and Employment Act*] Uradni list RS, No. 32/14 in 47/15 – ZZSDT  
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- Zakon za uravnoteženje javnih financ (ZUJF) [*Fiscal Balance Act*] Uradni list RS, št. 40/12, 96/12 – ZPIZ-2, 104/12 – ZIPRS1314, 105/12, 25/13 – odl. US, 46/13 – ZIPRS1314-A, 56/13 – ZŠtip-1, 63/13 – ZOsni-I, 63/13 – ZJAKRS-A, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 101/13 – ZIPRS1415, 101/13 – ZDavNepr, 107/13 – odl. US, 85/14, 95/14, 24/15 – odl. US in 90/15  
<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6388>

## Data sources:

- AJPES [Agency of the Republic of Slovenia for Public Legal Records and Related Services]: <http://www.ajpes.si/>
- EUROSTAT: <http://ec.europa.eu/eurostat>
- FURS [Financial Administration of the Republic of Slovenia]: <http://www.fu.gov.si/en/individuals/>

- MDDSZ [Ministry of Labour, Family, Social Affairs and Equal Opportunities]: <http://www.mddsz.gov.si/en/>
- SURS [Statistical Office of the Republic of Slovenia]: <http://www.stat.si/statweb/en/home>
- ZRSZ [Employment Service of Slovenia]: <http://english.ess.gov.si/>

## Interviews:

### *Metal and electrical industry*

Lidija Jerkič, Chairperson of SKEI (the interview took place at ZSSS / SKEI premises on April 16, 2015 from 9.00 to 11.00; the interviewers were Kramberger and Stanojević)

Janez Renko, GZS, The Electronics and Electrical Industry Association, (the interview took place at the premises of the Chamber of Commerce and Industry of Slovenia, on April 23, 2015 between 10.30 and 13.00; the interviewers were Kramberger and Stanojević)

### *Health care*

Jelka Mlakar, the Chairperson of the Trade Union of Healthcare Employees of Slovenia (the interview was conducted on April 16, 2015 at Vrazov trg 1, Ljubljana from 9.00 to 10.40; the interviewer was Majda Hrženjak).

Simon Vrhunec, the director of the Ljubljana University Medical Centre (UKC), (the interview was conducted on May 15, 2015 in the premises of UKC, Zaloška 2, Ljubljana from 11.00 to 12.00; the interviewer was Majda Hrženjak).

### *Retail sector*

Krivic, B. & Lapornik, M. (15. 6. 2015). *Interview*. The interviewers were Miroslav Stanojević and Branko Bembič.

Rožič, L. (22. 4. 2015). *Interview*. The interviewers were Miroslav Stanojević and Branko Bembič.

Statistični urad Republike Slovenije (SURS), <http://www.stat.si/StatWeb/>

### *Construction*

Oskar Komac, the secretary of the Trade Union of Slovenian Construction Workers– SDGD. The interview was conducted by Miroljub Ignjatović on April 21, 2015 at the Faculty of Social Sciences between 10 a.m. and 12 a.m.)

Eurostat 2015. Eurostat Database. <http://ec.europa.eu/eurostat/data/database>

IZS –Chamber of Engineers. 2013. The Chamber of Commerce and Industry and the Chamber of Engineers withdrew from the collective agreement in the construction sector.

SURS 2015. Data portal [http://pxweb.stat.si/pxweb/Database/Dem\\_soc/Dem\\_soc.asp](http://pxweb.stat.si/pxweb/Database/Dem_soc/Dem_soc.asp)

### *Temporary agency work*

Goran Lukič, independent counsellor for the employment policy, online communication and internal information at ZSSS, and David Švarc, secretary of the Free Trade Union of Slovenia, ZSSS (the interview was conducted on April 22, 2015 in the premises of ZSSS, Dalmatinova 4, Ljubljana from 15.00 to 17.00; the interviewer was Maja Breznik).

Anonymous representative of employers' organisation (the interview was conducted on May 20, 2015; the interviewer was Maja Breznik).



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