

CELSI Research Report No. 15

# THE RISE OF THE DUAL LABOUR MARKET: FIGHTING PRECARIOUS EMPLOYMENT IN THE NEW MEMBER STATES THROUGH INDUSTRIAL RELATIONS (PRECARI R)

## COUNTRY REPORT: CROATIA

APRIL 2016

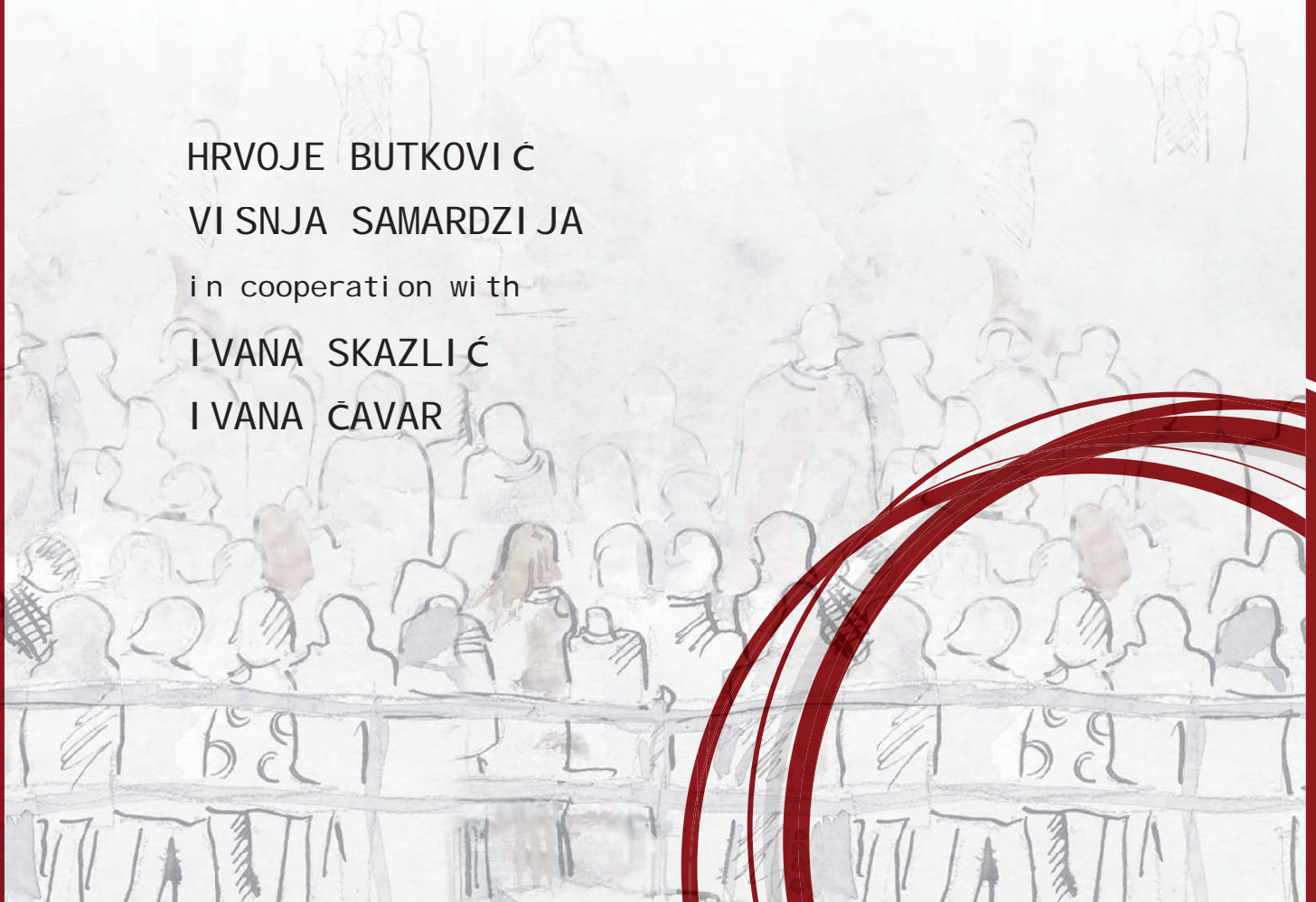
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# **The rise of the dual labour market: fighting precarious employment in the new member states through industrial relations (PRECARIR)**

## **Country report: Croatia**

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## **List of abbreviations**

ATUHSPC - Autonomous Trade Union in Health Service and Social Protection Service of Croatia

BCA - Basic Collective Agreement

CBS - Croatian Bureau of Statistics.

CCE - Croatian Chamber of Economy

CDT - Croatian Doctor's Trade Union

CEA – Croatian Employers Association

CEMEKO - Centre of the Metal Industry Competences at Đuro Đaković

CES - Croatian Employment Service

CNB – Croatian National Bank

CTA - Croatian Trade Union Association

CTUC - Commercial Trade Union of Croatia

CTUNMT - Croatian Trade Union of Nurses and Medical Technicians

EDP - Excessive Deficit Procedure

ESC - Economic and Social Council

GRC - Government of the Republic of Croatia

ITUC - Independent Trade Unions of Croatia

MACT - Association of Croatian Trade Unions (MATICA)

MTUC - Metalworkers' Trade Union of Croatia

NOC - National Occupational Classification

NRP - National Reform Programme

RC - Republic of Croatia

STUH - The Autonomous Trade Union of Tourism and Services

TAWs – Temporary Agency Workers

TUCIC - Trade Union of Construction Industry of Croatia

UATUC - Union of Autonomous Trade Unions of Croatia

UITUC - Union of Independent Trade Unions of Croatia

WDTU - Waste Disposal Trade Union in the Zagreb Holding Ltd.

## Introduction

This report is resulting from the PRECARIR EC funded project<sup>1</sup> which examines the phenomenon of the nonstandard or precarious work in nine new EU member states and in Greece by applying the common methodology. The aim of the PRECARIR project is to explore how the strategies of employers and trade unions across 10 EU Member States represent the interest of non-standard and vulnerable groups in precarious employment forms in the labour market; and how the needs of these groups are addressed in the process of collective bargaining and other initiatives by the social partners.

The aim of this report is to examine the rise of the dual labour market and the growth of the nonstandard or precarious work in the post crisis period in Croatia. The analysis is targeted on the activities of the trade unions and the employers which deal with the nonstandard work in all of its different manifestations. In the focus are five sectors covered by the PRECARIR project, namely the metal industry, healthcare, construction, retail as well as the temporary agency work, as sectors that were heavily influenced by impacts of the economic crisis. The study on Croatia researches the agency work as part of the other four sectors, due to limited activities of Croatian social partners in that particular sector. This research was carried out by the IRMO researchers and it was finalized in January 2016.

The rise of the nonstandard or precarious of work in Croatia is primarily driven by transition to free market economy which faced employers with the requirement of constant adapting to new market circumstances. The economic crisis and structural weaknesses of the economy further intensified the necessity for introducing more flexibility on the labour market in order to address the rising unemployment. Finally, an important driver for greater flexibility was the EU accession process. During this process Croatia aimed to implement measures to overcome the rigidity of its labour market, which was seen as an obstacle for growth and employment.

Croatia is the newest EU member state which joined the Union on the 1<sup>st</sup> of July 2013. Throughout long negotiation process (2005-2011) the country harmonized its' legislation with the *acquis communautaire* in the Chapter 19 dealing with the social policy and employment which, among others, includes minimum standards in the area of labour legislation. Back in the 2006, the EC Screening report for the Chapter 19 noted that Croatia had to address the problem of low employment and high unemployment rate and that it needed to promote measures aimed at increasing flexibility on the labour market. In 2008 the Government of Croatia and the European Commission (EC) launched the JAP - Joint Assessment of Croatia's Employment Policy Priorities process aimed at reaching an agreed set of employment policy objectives necessary to advance the country's labour market transformation. Despite this, the final adjustments with the *acquis* in this area were implemented as late as 2013, while more substantial flexibility related changes in the Labour Act were introduced in 2014, which was after the EU accession.

In terms of the economic context for development of the nonstandard or precarious work, it should be noted that Croatia was strongly hit by the crisis after 2008 and currently the economy started a slow recovery from prolonged, double-dip recession which lasted for six years in continuity. The GDP annual growth rates contracted significantly from relatively stable figures in the years before the crisis (the highest growth in the last 10 years was 5.2% in 2007). The GDP growth had the strongest negative change in 2009 (-7.4%) and the

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<sup>1</sup> PRECARIR - The rise of the dual labour market: fighting precarious employment in the new member states through industrial relations VP/2014/004/0066.

economy further contracted in year-on-year terms, in 2014 by -0.4% (Eurostat, 2015e). In 2013 Croatia's GDP per capita in PPS represented 61% of the EU28 average, which was below all PRECARIR countries except Romania (Eurostat, 2015f).

Finally, the year 2015 showed first positive trends in Croatian economy and signals that the recession is over. The GDP is expected to grow by 1.1%, as the contraction in domestic demand stops and exports continue to grow. Overall, the economy is set to grow at a rate of 1.4% in 2016, further accelerating to 1.7% in 2017. However, the general government debt-to-GDP ratio is projected to continue rising from 89.2% in 2015 to 92.9% in 2017. The rebound in investment is likely to be driven by the public sector, via an enhanced absorption of EU funds. (European Commission 2015d, 88-89).

Croatia formally participates in 2015 cycle of the European Semester for the second time. The country is in the process of intensive monitoring within the framework of the procedure for macroeconomic imbalances and Excessive Deficit Procedure (EDP). The Council's country specific recommendations address, among others, employment issues relevant for this study (European Commission, 2015e).

The country is facing one of the lowest labour market participation rates in the EU, which particularly affected young people (see Table 1).<sup>2</sup> Besides high unemployment and low labour market participation, the inadequacy of social benefits and services contribute to high levels of poverty and social exclusion (European Commission, 2015a, 66).<sup>3</sup> The EC scoreboard of the key employment and social indicators places Croatia together with Greece, Cyprus, Portugal, Spain and Italy within a group of countries facing substantial social challenges (European Commission, 2015c).

Negative economic trends during and after the crisis resulted in unfavourable developments on the labour market. Weak labour market performance still continues to be a challenge. According to Eurostat (2015v) the employment grew slightly in the period before the crisis, it recorded continuous negative trends after 2008 (64.9%), reaching the bottom level of 57.2% in 2013, while in 2014 a slight recovery has begun (59.2%).<sup>4</sup>

According to Eurostat (2015r), Croatia was continuously recording high unemployment rates with growing trends between 2009 (9.1%) and 2013 (17.2%), while positive trends could be expected in 2016 (16.6%) according to the EC Spring Forecasts 2015b. As a comparison it could be mentioned that among the PRECARIR countries only Greece recorded stronger growth of unemployment and reached a higher unemployment level (27.3% in 2013). Additionally, the Eurostat data (2015s) shows that Croatia belongs to the EU countries with the highest youth unemployment (15-24). It has been rising since 2008 (23.7%) and it reached the highest level of 50% in 2013 (one half were long-term unemployed), while positive signs became visible in 2014 (45.5%).<sup>5</sup> This is result of the various measures implemented to address youth unemployment, some of which are part of the Youth Guarantee

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<sup>2</sup> Besides unemployment the main reasons for low market participation of population of working age is the early retirement, followed by the education (Tomić, 2015, 25).

<sup>3</sup> The right to monetary remuneration of the individual who lost its job and became unemployed is granted for a period of at least 90 and at most 450 days. For the first 90 days of unemployment the remuneration is 70% of the salary base and for the rest of time 35% (Bejaković, 2015, 115).

<sup>4</sup> Decrease in employment was mostly felt in the private sector. In the period between 2008 and 2014, the employment in the business sector decreased 15%, while in crafts and free professions 25%. On the other hand, in the public sector there was 3% increase in employment (Tomić, 2015, 34).

<sup>5</sup> Out of all new EU member states the unemployment rates of women remain particularly problematic in Croatia and Slovakia (European Commission, 2015c, 13).

Implementation Plan.<sup>6</sup> Among the PRECARIR countries only Greece recorded higher, but also decreasing levels of youth unemployment (52.4% in 2014).

**Table 1: Labour market participation, poverty and social exclusion in Croatia**

	2008	2009	2010	2011	2012	2013	2014
<b>Labour market participation</b>							
Employment rate	64.9	64.2	62.1	59.8	58.1	57.2	59.2
Employment growth	3.80	-0.70	-3.80	-3.90	-3.60	-2.60	2.70
Unemployment rate	8.90	9.60	12.30	13.90	16.10	17.30	17.00
Long-term unemployment rate	5.30	5.10	6.60	8.40	10.20	11.00	10.10
Youth unemployment rate (less than 25 years)	23.70	25.20	32.40	36.70	42.10	50.00	45.50
Activity rate (15-64 years)	65.60	65.50	65.30	63.70	63.10	64.10	66.30
Young people not in employment, education or training (15-24 years)	11.60	13.40	15.70	16.20	16.60	19.60	19.30
<b>Poverty and social exclusion</b>							
People at risk of poverty or social exclusion	-	-	31.10	32.60	32.60	29.90	-
At-risk-of-poverty rate	17.30	17.90	20.60	20.90	20.40	19.50	-
Severe material deprivation rate	-	-	14.30	15.20	15.90	14.70	-
People living in households with very low work intensity (less than 60 years)	-	-	13.90	15.90	16.80	14.80	-

Source: Eurostat 31.7.2015. (Compiled by the authors)

The report consists of two major parts. The first part which is mainly based on the desk research (legislative, statistical, academic and media sources) presents characteristics of Croatian labour market with the focus on the nonstandard or precarious work. It particularly discusses issues related to institutionalized forms of the nonstandard work in Croatia. The second part is predominantly based on the interviews with representatives of social partners as well as with the relevant experts (16 interviews altogether). It analyses sector specific evidence of nonstandard work in Croatia in the construction, metal industry, retail and public healthcare, offering specific insights into strategies of Croatian social partners towards such work. Due to inexistent organisation of social partners on the level of temporary agency work as a sector, the issues which relate to this sector are not addressed in a separate chapter but throughout the study.

<sup>6</sup> Youth Guarantee Implementation Plan contains a complete description of reforms and measures to be implemented in order to facilitate transition of young persons from education system to employment, and to establish a system of Youth Guarantee.



## Part I: Precarious Work in Context

### I. 1. Legal developments

#### *1.1. Gradual increase of flexibility in the Labour Act*

The Labour Act (OG 93/14) is the most important legislative act governing employment in Croatia in its various forms, including nonstandard employment.<sup>7</sup> The normative regulation of employment is supplemented by provisions of the numerous additional acts which have employment related implications and mostly concern functioning of the state and public services. The current Labour Act is an extensive piece of legislation consisting of 235 articles dealing with issues such as individual employment relations, collective employment relations and participation of employees in decision making etc. In the past a division of the Labour Act on the Act on Labour Relations and the Act on Collective Labour Rights has been discussed, due to Labour Act's extensive character (Butković, Samardžija and Tišma, 2012, 110).

The Labour Act defines two kinds of employment contracts according to their length; the open-ended contracts and the fixed-term contracts which are defined as exceptional. According to Statistical Yearbook of the Republic of Croatia for 2013 there were a total of 1,365,000 persons in employment (CBS, 2014). The number of persons employed in legal entities was 1,035,365. Out of that number 893,892 (86.3%) worked on open-ended contracts, 134,861 (13%) worked on fixed-term contracts, while 6603 (0.7%) worked as trainees (ibidem). However, apart from the open-ended contracts and the fixed-term contracts it is also possible to work on the contracts outside of employment relationship i.e. contract for work, author contract for work and the student contract. These alternative forms of work are not regulated in the Labour Act. Therefore, they are highly precarious with respect to wage levels, social security entitlements, job security, access to training and other labour conditions.

In the period after Croatia's accession to the EU (July 2013), the active labour market policy measures have been strengthened and further harmonized, in accordance with the Europe 2020 Strategy and the EU strategic documents in the field of employment. In December 2014 Government adopted the Guidelines for Development and Implementation of the Active Labour Market Policy for the period from 2015 to 2017 (GRC, 2014). This document envisages support to persons employed on the flexible employment contracts as one of the measures within the priority area increasing the competitiveness.

The first Labour Act was introduced in Croatia in 1996 and since then it was changed or amended six times. In 2003 amendments to the Labour Act were introduced on employers' initiative and brought greater flexibility on the labour market. These changes were heavily criticized by most of the trade unions (Bagić, 2010, 223).

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<sup>7</sup> According to the current Labour Act (OG 93/14) the standard employment contract is a full-time open-ended contract (40 hours per week). The social security and healthcare contributions are paid by employer. The pension system provides a pension for all workers that reach a retirement age and which paid contributions for more than 15 years. Since 2008 the minimum wage is set by the law and it is calculated by using the average wage indicator and the GDP rates in the previous year (322 EUR net in 2014). The dismissal period is between two weeks and three months depending on the time spent with the employer. Holiday entitlements are four to six weeks per year according to the employee's age and the period worked. A woman has a right to maternity leave during her pregnancy and childbirth; 45 days before the expected date of childbirth and may remain on such leave until her child is one year old. After the expiry of mandatory maternity leave (28 days before birth until 6 months of the child's age), the right to paternity leave can be provided to the child's father.

The 2003 amendments introduced the institute of temporary agency work for the first time, which was considered to be the most important change. The amendments also introduced work from the distant location which must be paid same as work in the premises of the employer. The 2003 changes specified that the salary always needs to be understood as gross salary with all contributions, which was not welcomed by some employers (ibidem). The conditions when a fixed-term contract can be used were relaxed which resulted in increase of fixed-term employment from 2003 onwards (Interview with the Ministry of Labour, 2015). The salaries accounting and severance pays were defined as foreclosure documents. Therefore, in case when employer fails to pay, this makes it easier for the employees to effectuate their rights. The notice periods in case of the regular dismissals continued to be linked to the length of employment with the same employer, but they were halved, from six to three months in case of employment longer than 20 years. Similarly, the severance pay was limited to six average salaries at the maximum, unless otherwise prescribed by collective agreement (Babić et al., 2003). As a consequence of changes introduced in 2003 the employment protection legislation index was reduced from 3.58 to 2.76 (Matković, 2013, 93; Bagić, 2010, 226).

In late 2009, after one and a half year of negotiations with the social partners, the new Labour Act was adopted. The new elements in the Labour Act primarily related to harmonization with the EU *acquis* because previously this was not completed. The new Act was harmonized with the directives addressing: organization of the working time, part-time work, fixed-term work, collective dismissals, protection of workers' rights in case of the company transfer, parental leave, gender equality, vocational training, working conditions, protection of youth at work as well as participation of workers in decision making at the European level (Gotovac, 2010, 11). Among most important changes was a possibility of a more flexible organization of working time particularly for the workers working in shifts (Interview with the Ministry of Labour, 2015). The 2009 Labour Act complied with requests of the trade unions and limited application of the fixed-term contracts through binding them with the employer and not as previously with the job that the employee is carrying out. An important new element also in line with the trade union demands was obligation for the employers to register working time of their employees, which eases position of the employees in case of labour disputes over working time (ibidem, 13). The employers benefited from better regulation of part-time employment. Namely, the Labour Act prescribed that contributions on the salaries of part-time workers need to be calculated in proportion to the working time, and not as previously same as for the full-time workers (Novaković, 2013b, 41).

However, apart from harmonization with the *acquis*, the 2009 Labour Act contained very few genuinely new elements. Many commentators agreed that in 2009 Croatia missed the opportunity to introduce more substantial reform of its labour market and continued to lag behind other CEE countries in that respect (Gotovac, 2010, 15; Bagić, 2010, 229; Kunovac, 2014, 2). In 2011 the Labour Act was also changed but yet again with the sole purpose of completing the remaining harmonization with the *acquis* (Novaković, 2013b, 37). Therefore it is not surprising that the European Commission and international financial institutions indicated that Croatia's employment protection legislation envisages lengthy and complicated dismissal procedures (World Bank, 2011, 3; European Commission, 2013, 19).

As a response to the crisis in 2010 the Government adopted its Economic Recovery Program, together with a detailed activity plan (GRC, 2010a and 2010b). Changes in labour legislation are among the main elements of this program and their aim is creation of a more dynamic and flexible labour market with increased labour force participation rate. Therefore, in the early 2013 the Ministry of Labour and the Pension System initiated the process of adopting the new Labour Act, aimed at allowing greater flexibility on the labour market and at fostering

new types of employment, in particular part-time employment, seasonal work and temporary agency work (Ministry of Labour RC, 2013). Same as with all previous changes to the Labour Act, the initiative came from the Ministry of Labour. The social partners were included in negotiations over proposed changes and they contributed to the quality of legislation by formulating their standings on proposed solutions.<sup>8</sup> However, their positions were so polarized that finding the lowest common denominator on particular issues was extremely hard. The Ministry encouraged employers and the trade unions to formulate the arguments from a perspective of their opponent. Unfortunately, this approach aimed at finding a minimal level of consensus proved unsuccessful, because both parties found it very difficult to move away from their expected traditional standpoints (Interview with the Ministry of Labour, 2015). It is therefore hardly surprising that both the trade unions and the employers disagreed with final version of the text.

For the employers, changes to the Labour Act were not courageous enough. They did not bring the desired level of flexibility that would allow greater number of workers to enter the labour market and later on move from the nonstandard to standard employment (Interview with the CEA's Legal Department, 2015). Furthermore, the employers claimed that changes are inappropriate for the depth of the economic crisis (Lisjak, 2014). Apart from external flexibility the employers wanted legislation that would allow more inner flexibility at the company level. They complained that transferring workers, according to their qualifications, to different working places within the same company is currently very difficult (Novaković, 2013b, 41). For the trade unions these latest changes were unnecessary because Croatian legislation was already harmonized with the EU *acquis*. The trade unions also claimed that the balance between flexibility for employers and protection for workers was disrupted for the benefit of the employers (Interview with the UATUC's Secretariat, 2015).

The changes initiated in 2013 were introduced in two phases. Firstly, in June 2013 some minor changes were made aiming at finalizing harmonization with the EU *acquis*. As a part of these changes, temporary agencies were allowed to carry out activities related to employment (in addition to co-signing) which simplified their work. Additionally, the agencies were obliged to regularly deliver statistical information on their activities to the Ministry of Labour (Novaković, 2013a). Secondly, after lengthy consultations with social partners in July 2014 the new Labour Act was adopted introducing more substantial changes which reduced employment protection legislation index from 2.55 to 2.28 (CNB, 2014, 17).<sup>9</sup> It could however be argued that introduced changes only deepened the segmentation on Croatian labour market, since they introduced further flexibility mostly to nonstandard forms of employment, leaving provisions which regulate the standard employment practically unchanged (Brkić, 2015).<sup>10</sup> The most important novelties of the new Labour Act were the following:

- *Unequal working hours schedule*

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<sup>8</sup> Representatives of temporary agencies were also consulted. They formed coordination within Croatian Employers' Association which expressed its views on the proposed legislation (Interview with the Adecco Croatia, 2015).

<sup>9</sup> As a consequence, the European Council's recommendations related to Croatia's National Reform Programme 2015 and Convergence Programme 2015 had put less focus on the labour market, which could be interpreted as a positive signal. However, it was recommended that Croatia should "strengthen incentives for the unemployed and activities to take up paid employment" which could be interpreted as encouragement for further development of the flexible types of work.

<sup>10</sup> The similar conclusion was reached by Alka Obadić who observes the situation on the Europe wide level (2013).

The employer is given the right to modify the employee's working hours according to the current work needs. In that case the employer must inform the worker of his pattern of working hours at least one week in advance. The limitations to the uneven working schedule are that it cannot last for less than a month or longer than a year,<sup>11</sup> and that maximum time an employee can work should not exceed 50 hours a week or 180 hours a year, including the overtime work. Where the working time is unevenly distributed, the worker may not, in any period of four successive months, work more than 48 hours a week on the average, including the overtime work. Longer working periods may be agreed in collective agreements, in which case work may not exceed 60 hours a week in any period of six successive months, or 250 hours a year (Art. 65-66).<sup>12</sup>

- *Total number of working hours*

The unequal distribution of working time under collective agreement may also be regulated as a total number of working hours during the period of uneven distribution of working time. In that case there are no specific restrictions on working time, including the overtime work, except the fact that the total number of working hours may not exceed the average of 45 hours a week within the four month period (Art. 66).<sup>13</sup>

- *Fixed-term employment*

The possibility of concluding the first fixed-term contract for a period longer than three years was introduced (Art. 12).

- *Part-time employment*

In addition to pay and contributions to the salaries all other material rights of part-time workers must be regulated in accordance with the working time (Art. 62).

- *Additional employment contract*

Worker who works full-time, with one employer (Article 61), or with more employers part-time which together makes full-time (Article 62), may conclude an additional employment contract with another employer in the maximum duration of 8 hours a week, i.e. up to 180 hours a year.<sup>14</sup>

- *Temporary agency work*

The Act introduced a possibility of arranging less favourable working conditions for the agency workers compared to the regular workers by means of collective

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<sup>11</sup> The limitations to uneven working schedule proved as problematic in practice because many employers wanted to install this regime for a shorter time period (Interview with the Ministry of Labour, 2015).

<sup>12</sup> From the trade union's perspective, the primary problem with this provision lies in inadequate limitations to daily work. Namely, the Labour Law only prescribes that the worker shall be entitled to a minimum daily rest period of 12 consecutive hours per 24-hour period (Art. 74). In practice this means that the worker can be required to work 12 hours a day for four consecutive days if the employer demands it (Interview with the UATUC's Secretariat, 2015). From the employers' perspective this is a welcomed change. Previously the rigidity of working hour's schedule resulted in many employers paying fines for ordering the overtime work above the legally prescribed maximum (Interview with the Ministry of Labour, 2015).

<sup>13</sup> This possibility was very much advocated by the employers. However, so far there are only four collective agreements which adopted it (Interview with the Ministry of Labour, 2015).

<sup>14</sup> The trade unions are opposed to this institute because they see it as a substitute for a failed Governments' attempt to introduce the Act on the Causal and Provisional Work which was rejected by the social partners in 2013 (Interview with the ITUC's Secretariat, 2015). For the details on the draft Act on the Causal and Provisional Work see the next section.

bargaining (Art. 46). The length of time for which a temporary agency worker can be employed doing the same type of work for a particular employer was extended to three years (Art. 48).<sup>15</sup>

- *Posted workers*

The Act introduced a possibility of posting the worker to a company associated with the employer for a maximum period of six consecutive months (Art. 10). If the worker is posted to associated company abroad the maximum period is set at two years (Art. 18).

- *Period of notice*

Temporary inability to work, annual leave or paid leave no longer can stop the notice period from running. In such cases duration of the notice period is set at six months, at the maximum (Art. 121).

- *Judicial cancellation of employment contracts*

When the court establishes unlawfulness of the dismissal effected by the employer, and the worker finds it unacceptable to resume the employment relationship, the court shall award him/her an indemnity in an amount not less than three and not more than eight monthly salaries, paid over the preceding three months. Previously such workers were entitled to a maximum of 18 salaries (Art. 125).

- *Separate place of work*

Employers are no longer required to notify the labour inspection of the conclusion of an employment contract where the employee has a separate place of work.

## ***1.2. Additional legislation addressing flexibility on the labour market***

When discussing flexibility on the labour market, it is important to mention the Act on Representativeness of the Trade Unions and Employers. It was enacted in 2012 and changed and modified in the later years (OG 93/14, 26/15). This Act abolished provision of the Labour Act which regulated extended application of collective agreements, limiting such application to three months from the expiry of collective agreement. As such, the Act on Representativeness contributed to cancellation and renegotiation of the numerous collective agreements, which has implications for the nonstandard or precarious work. Namely, the trade unions used to be in much better position when engaging in collective bargaining, because expired collective agreements counted as valid until adoption of the new ones (Butković, Samardžija, Tišma and Funduk, 2014).

In 2012 the Act on Promotion of Employment (OG 57/12, 120/12) extended the circle of people who can benefit from the measure of occupational training without commencing employment, which first entered into force in 2010 by means of the Labour Act. The Act on Promotion of Employment prescribes that the State will pay the salaries and contributions for employers that train young persons (under 35) with the university degree, who are able to acquire 12 months' work experience in this way (Art. 6). According to the same principle, salaries and contributions are paid by the State for the young high school graduates in crafts professions, for a period of 36 months. Since 2014 the measure of occupational training

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<sup>15</sup> The trade unions protested against making of the agency work more available, arguing that trends related to transferring of agency workers into standard employment are not being monitored and that there are no stimulations for such activity (Interview with the UATUC's Secretariat, 2015).

without commencing employment is incorporated in the Youth Guarantee Scheme which is financed from the EU's Social Fund.

Out of all new active labour market policy participants in 2014, 47.5% were covered by the measure of the occupational training without commencing employment (see Table 2).<sup>16</sup> In September 2014, the Croatian Employment Service lowered the eligibility criteria for participants and as of January 2015 their financial allowance was raised from HRK 1,600 (EUR 208) to HRK 2,400 (EUR 312).<sup>17</sup> Therefore at the moment this financial allowance is roughly at the level of minimum wage (EUR 322).<sup>18</sup> The Act on Promotion of Employment also introduced the possibility of work for the vouchers in the agriculture (Art. 9-13) which allows daily work in that sector.<sup>19</sup>

**Table 2: Users of the measure of occupational training without commencing employment (2010-2015)**

	2010	2011	2012	2013	2014	I-VIII 2015
Active users at the beginning of the year	-	491	4,127	4,876	13,776	13,897
New comers in the year	448	4,760	5,456	14,445	14,263	9,199
Total users in the year	448	5,251	9,583	19,321	28,039	23,096

Source: Croatian Employment Service

In 2013 the Ministry of Labour drafted the Act on the Causal and Provisional Work (equivalent to “mini jobs” legislation in Germany). The intention of this act was to regulate causal and provisional work such as aid in the household which is currently almost entirely preformed as part of informal economy. After some months of negotiation, the Ministry dropped this legislative proposal due to strong opposition from the trade unions who obtained support from the employers. The principle fear of the trade unions was that such Act would open the door to subversion of established labour standards. Namely, the draft Act didn't define what constitutes a causal or provisional work, meaning that gradually numerous jobs currently performed by the regular workers could have been transferred into this domain (Interview with the ITUC's Secretariat, 2015).

In 2014 the Act on Support in Preservation of the Workplaces (OG 93/14) was adopted. It promotes flexibility on the labour market by offering financial backing to employers in difficult market positions that were forced to temporarily shorten working time of their full-time workers. For the period of working time that was shortened (Art. 8) such employers receive from the state budget a proportional amount of the minimal wage which needs to be paid to such workers.

<sup>16</sup>In 2014 Croatia launched 11 new active labour market policy measures under the Young and Creative' package, which now includes employment and self-employment subsidies, training and specialisation subsidies, traineeships for work, community service and job preservation (European Commission, 2015c, 37). In the same year more than 10% of the unemployed participated in active labour market policies which is significantly more than before the crisis (Tomić, 2015, 37).

<sup>17</sup> See European Commission, 2015a, 68.

<sup>18</sup> Initially the trade unions protested against this measure arguing that it abolishes the established price of labour (Butković, Samardžija and Tišma, 2012).

<sup>19</sup> In the trade union's note that since introduction of this legal possibility the number of seasonal workers in the agricultures has been drastically reduced (Interview with the ITUC's Secretariat, 2015).

In order to diminish segmentation on the labour market which particularly affects youth, in 2014 changes were also introduced into the Contributions Act (OG 143/14). According to these changes the employer which employs a young worker (under 30 years) on an open-ended contract is freed from paying contributions on that worker's salary in a period of five years (Zuber, 2015).<sup>20</sup>

## I. 2. Form and incidence of precarious employment in the economy

### *Trends in working and employment conditions within precarious employment*

From the year 2010 to 2014 a significant rise in the number of employees with a fixed-term contract (or temporary employees) was recorded in Croatia. According to Eurostat (2015p), the share of those employees in the total number of employees increased from 12.3% in 2005 to 16.9% in 2014. Compared to other PRECARIR countries, Croatia recorded the highest increase, followed by Hungary and Slovakia, to a lesser extent Poland and Czech Republic, while the rate of other PRECARIR countries is somewhat constant through the mentioned period, or even is slowly decreasing. In 2014, Croatia is positioned above the EU28 average (16.9% as compared to 14.0%) while as compared to other PRECARIR countries the country is positioned after Poland (28.3%) and followed by Slovenia, whose rate is closest to Croatia and amounts 16.5% (Eurostat, 2015p).

It is important to emphasise that the share of young people (15-24 years) who work on fixed-term contract increased in Croatia from 38 % in 2005 to 57.2% in 2014 (Eurostat, 2015q) which is significantly above the increase of the total number of fixed-term contracts in the mentioned period. Among other PRECARIR countries Slovakia and Czech Republic had a higher growth in that category, while some countries (Latvia, Lithuania) recorded decreases (Eurostat, 2015q). In 2014 Croatia was positioned above the EU28 average (57.2% as compared to 43.3%), while Slovenia and Poland had the highest proportion of temporary employed youth (72.7% and 71.2% respectively).

Opposite to the increase of the fixed-term contracts (which indicates shift towards greater flexibility) the number of persons employed part-time is decreasing. Namely, from 2005 when it amounted 10.1% it dropped to 6.2% in 2014 (Eurostat, 2015m). Compared to other countries of the PRECARIR study, Croatia has the greatest decline of persons employed part-time, similar to Poland, while most of the PRECARIR countries recorded increase of the part-time employment. In comparison with the EU28 average in 2014 (20.5%) Croatia had among the lowest level of part-time employment (6.2%) similar to Hungary and Slovakia, while the highest rates were in Slovenia (11.2%) and Romania (10%). However, it is evident that all PRECARIR countries have significantly lower proportions of part-time employment in the total employment than the EU28 average (ibidem).

The share of involuntary part-time employment in the total part-time employment is increasing in Croatia from 22.5% in 2005 to 25.5% in 2014 (Eurostat, 2015i) but it is still under the EU average (29.4% in 2014). As compared to the PRECARIR countries, Croatia was in 2014 among those with the lowest rate, closest to the Czech Republic (21.1%) while Greece (71.2%), Romania (56.9%) and Hungary (41.1%) have been placed high above the EU28 average.

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<sup>20</sup> The general relaxing of the tax burden on work is necessary in order for Croatia to improve its competitiveness, keep the existing and open new working places and attract new investments (Šimurina, 2015, 145).

Regarding the number of employed persons having a second job (expressed in thousands, annual average), in 2014 Croatia recorded 37.4 thousand such workers and was positioned according to this indicator at the bottom of the PRECARIR countries together with Latvia and Slovenia (Eurostat, 2015c). In the period between 2005 and 2014 the number of people in Croatia with the second job was fluctuating and decreasing. The increase in 2014 in comparison with the previous year could be seen as an indicator of flexible trends in this domain, but it should be interpreted with caution given the low number of persons in this category.

Concerning the working hours of the full and part-time employed in Croatia, both parameters recorded a small decrease in the period of last 10 years and in 2014 they were at the level of the EU28 average. In the year 2005, full-time employed worked an average of 42.4 hours per week (Eurostat, 2015g) and part-time employed 22.3 hours (Eurostat, 2015h). In 2014 full-time employed worked 41.2 and part-time employed 20.3 hours per week.

The number of self-employed persons has fallen since 2010. This could be attributed to impacts of the crisis which forced many self-employed individuals into unemployment (Eurostat, 2015n). The same trend is not so clearly observable at the level of the EU 28 average. The number of Temporary Agency Workers (TAWs) is on an increasing pattern, although in 2013 slight decrease was recorded (Eurostat, 2015u). Fluctuation of workforce on Croatian labour market is relatively limited. On yearly bases around 20% of workers change their employer (Interview with the CES, 2015).



**Table 3: Precarious forms of employment - Croatia compared to the EU 28 average**

Forms of precarious employment	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2014 (EU28, average)
Temporary employees as percentage of the total number of employees, by sex and age (%) Sex: Total, Age: From 15 to 64 years, Unit: Percentage	12.3 <sup>b</sup>	12.9	13.2	12.3	12.0	12.8	13.5	13.3	14.5	16.9	14.0
Temporary employees as percentage of the total number of employees, by sex and age (%) Sex: Total, Age: From 15 to 29 years, Unit: Percentage	28.8 <sup>b</sup>	30.3	28.9	26.3	26.5	29.0	33.3	34.6	35.4	40.1	32.1
Persons employed part-time - Total % of total employment	10.1	9.4	7.7	8.0	8.2	8.6	8.8	7.1	6.5	6.2	20.5
Involuntary part-time employment as percentage of the total part-time employment, by sex and age (%) Sex: Total, Age: From 15 to 64 years	22.5 <sup>b</sup>	24.9	23.4	21.8	21.5	23.1	24.7	22.2	24.8	25.5	29.4
Hours worked per week of part-time employment Annual average	22.3 <sup>b</sup>	21.7 <sup>b</sup>	20.6	21.3	21.5	21.3	21.5 <sup>b</sup>	20.6	20.5	20.3	20.1
Hours worked per week of full-time employment	42.4 <sup>b</sup>	42.0 <sup>b</sup>	42.2	42.1	42.1	42.0	41.7 <sup>b</sup>	41.4	41.1	41.2	41.5
Employed persons with a second job Annual average (1000)	53.4 <sup>b</sup>	47.7	50.8	52.3	47.0	43.6 <sup>b</sup>	37.5	33.2	27.5	37.4 <sup>b</sup>	8,824.8 <sup>b</sup>
Number of self-employed people Annual average (1000)	302.6	279.4	288.7	294.8	288.8	294.1	280.0	245.0	229.5	207.3	30,549
Temporary employment agency activities (INDIC_SB: Number of employees)	-	-	-	2,455	2,846	3,539	4,507	5,752	5,207	5,371	37,078*
Monthly minimum wage as a proportion of average monthly earnings (%) - NACE Rev. 2	-	-	-	37.6	37.9	38.0	37.5	37.0	37.5	38.8	-

Note: b - break in time series

Source: EUROSTAT

\*data for 2013

## *Forms of precarious employment in Croatia*

### Fixed – term work

Fixed-term work is the most frequent form of nonstandard or precarious employment. In the initial years since the outbreak of the crisis fixed-term employment was reduced, because workers on such contracts were the first to lose their jobs. However, in later years work on fixed-term contracts has increased and now it is above the pre-crisis level (Interview with the CES, 2015). In the last ten years fixed-term employment became dominant form of new employment in Croatia (Potočnjak and Gotovac, 2009; European Commission, 2013). In April 2015 95.4% of all newly employed were employed on the fixed-term contracts (CES, 2015). Fixed-term workers are more likely to be employed in the private than in the public sector. Largest proportion of fixed-term workers can be found in agriculture, construction, retail, tourism, catering as well as in transport. Regarding size of the company the rule is the smaller the company the more likely it is to use fixed-term contracts. With respect to worker's age young workers at the beginning of their careers are most likely to be employed on such contracts (Matković, 2013). Finally, relative scarcity of bogus self-employment could be explained with the popularity and ease of using fixed-term contracts (Interview with the CES, 2015).

The Labour Act defines fixed-term employment contract as an exception (Art. 12). While the trade unions argue that the popularity of fixed-term employment represents clear abuse of the Labour Act, for the employers this is directly linked to rigid legislation which makes dismissal of workers on open-ended contracts very difficult (Novaković, 2013b, 44). Provisions of the Labour Act which regulate fixed-term employment are harmonized with the EU Directive 1999/70 on fixed-term work. This directive stresses that the abuse of fixed-term employment must be prevented by applying one or more of the following measures: i) stipulating maximal length of the fixed-term employment, ii) disclosing objective reasons for fixed-term employment and iii) prescribing maximal possible number of the fixed-term contracts. In order to prevent abuses, the Labour Act incorporates first and the second measure but not the third one (ibidem, 39).<sup>21</sup>

As a general rule consecutive fixed-term contracts without interruption cannot be concluded for a period longer than three years, except in case of replacing the temporarily absent worker, or if otherwise prescribed by the law or collective agreement. Furthermore, an interruption of less than two months shall not be regarded as the interruption of the three-year period. Art. 12 also stipulates that the employer may enter into a successive fixed-term employment contract with the same worker solely on objective grounds. The 2014 Labour Act (Art. 12) prescribed that the limitation of three years doesn't apply to first such contract which can be longer. This novelty was introduced in order to allow employers to hire fixed-term workers on a particular project or assignment whose duration is known in advance (Interview with the Ministry of Labour, 2015). If the fixed-term contract is not concluded in compliance with the Labour Act or if a worker continues to work for the same employer after the expiry of concluded fixed-term contract, that contract is considered as open-ended.

Work on a fixed-term contract may be considered as precarious employment when it comes to the job security of the worker but also with respect to professional training, considering that employers are usually less motivated to invest in workers on such contracts. Another

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<sup>21</sup> The third measure was rejected by the trade unions who feared that it would not be beneficial for the workers. Namely, they feared that in such case instead of employing their fixed-term workers on open ended contracts the employers might simply hire completely new workers (Interview with the UATUC's Secretariat, 2015).

aspect of precariousness in fixed-term work relates to workers' reluctance to claim all of their rights and to join the trade unions, fearing that their contracts may not be renewed.

### Part-time work

In Croatia, there is a clear distinction between part-time and short-time work. While short-time work represents a special protection instrument for the worker (due to jobs involving harmful effects or due to intensified childcare) part-time employment is solely the consequence of objective conditions on the labour market (Zuber, 2006). Article 62 of the Labour Act (OG 93/14) defines part-time employment as any work for less than 40 hours a week. The same article also stresses that in addition to salary and its contributions all other material rights of part-time workers have to be regulated in accordance with the working time. The fact that such precise provision was added to the Labour Act only in 2014 made some commentators argue that previously part-time work was simply too expensive for the employers (Novaković, 2013b, 40). Despite recent changes part-time employment is still rarely used. By observing different forms of work it could be concluded that part-time work is mostly being performed by the self-employed persons (Matković and Šošić, 2007, 78). This form of employment is most frequently used in the education sector due to defined number of hours by the educational program, while the employers in other sectors prefer to use contracts outside of the regular employment relationship.

Part-time employment is precarious from the perspective of social rights which are calculated in accordance with the working time. From the perspective of job security part-time jobs are more precarious than the full-time jobs because in case of workers' surplus part-time workers are more likely to lose their jobs. With respect to maternity leave, the women with the status of unemployed mothers are entitled to greater atonements than the women employed part-time (Zuber, 2006).

### Temporary agency work

The Labour Act defines temporary agency as employer that assigns workers for temporary work to another employer (user undertaking) on the basis of the worker assignment contract (Art. 44). Such agency has to be registered with the ministry responsible for labour affairs. The Labour Act stipulates the form and the required minimal content of the worker assignment contract between the agency and the user undertaking, as well as the form and content of the temporary assignment contract which is signed between the agency and the worker.

Article 46 allows the agency to conclude temporary assignment contract with the worker for a fixed or open-ended period. In case of concluding an open-ended contract, when the worker is not assigned to the user undertaking, he/she receives from the agency a remuneration in the amount of the average salary received over the preceding three months. However, in practice all contracts used by the temporary agencies are fixed-term. In the agencies they stress that open-ended contracts will become a reality when users become ready to share the dismissal costs for TAWs with the agencies and when demand for such workers increases (Interview with the Adecco Croatia, 2015). The 2014 Labour Act allowed the assigned worker to perform same work for the same user undertaker for an uninterrupted period of three years, whereas an interruption of less than two months is not regarded as interruption (Art. 48). Previously, the time limitation for this particular situation was set only for one year, with a minimal interruption of one month.

In Croatia the agency work is less common than in other EU member states (Novaković, 2013a). Such work is demanded mostly in telecommunications and in food industry, most frequently when employers need a particular profile of workers for a determined time period.<sup>22</sup> An additional reason for employing such workers is the fact that employers in their books don't register agency work as de facto employment. Therefore, such work is convenient if employers don't want to show increase in employment (Interview with the CES, 2015). According to available official data, in 2014 temporary agencies employed a total of 13,684 workers (which is around 1% of the total work force).<sup>23</sup> However, this data refers to the number of temporary agency contracts in the entire year. Most TAWs work on more than one contract within one year, therefore their number is likely to be smaller (see Table 3).<sup>24</sup> The average duration of the temporary agency contract is 11 months but this is only an average figure and variations in duration of contracts are significant (Interview with the Adecco Croatia, 2015). Currently in Croatia there are no trade unions which would organise just the TAWs and the number of agency workers which are members of other sectoral or company level trade unions is very low. The agencies themselves are not members of the CEA, which is the only representative employers' association in the country. However, the agencies formed a coordination which is associated with CEA and which can be contacted by the government bodies (ibidem).

Precarious elements in agency work relate primarily to the fact that these workers work on fixed-term contracts. In accordance with the EC directive 2008/104 on work through the agencies for temporary employment, the Labour Act (Art. 46) prescribed that working conditions of TAWs need to be the same as those for other workers employed in that particular company. However, since 2014 the Labour Act prescribes a precise list indicating what additional material rights (such as Christmas bonuses or a gift for a child) apply to agency workers. This list is not comprehensive, which in practice means that some rights which collective agreements assign to regular workers are no longer applicable to agency workers (Interview with the ITUC's Secretariat, 2015). Additionally, since 2014 there is a possibility of concluding separate collective agreements with the TAWs prescribing lower wages and social protection standards (Art. 46). For the time being there is no evidence that any company in Croatia concluded such separate collective agreements. In the agencies they note that the best way of implementing new provisions on collective bargaining for the agency sector would be conclusion of a sectoral collective agreement for all TAWs. This position is supported by arguing that there are many agencies and that salaries are decided by the users (Interview with the Adecco Croatia, 2015).

In 2014 there were 77 agencies which received the licence for operation from the Ministry of Labour. However, only around 30% of them were active (generating profit). In 2014 profit of the entire agency sector was around 500 million HRK (ibidem). This number is small compared to other new EU member states, which could be explained with the lack of major foreign investments in the area of production. Namely, examples from the new member states show that in production facilities financed by the foreign capital TAWs represent 20-30% of

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<sup>22</sup> In 2015 the Waste Disposal Trade Union in the Zagreb Holding Ltd. managed to persuade the company management to transfer close to 200 TAWs into standard employment arguing that the work implemented by them is of regular and not of temporary character. The mentioned trade union first included the TAWs into its membership and after that it started to fight for their cause (Interview with the WDTU, 2015).

<sup>23</sup> Before 2013 data on temporary agency employment was not systematically collected by the Ministry of Labour and the Pension System.

<sup>24</sup> According to the data of Adecco Croatia – Agency for Temporary Employment currently there are no more than 5,500 TAWs in Croatia which is around 0.4% of the labour force. This is an increase compared to before the crisis when according to estimations there were 3,500-4,000 such workers (Interview with the Adecco Croatia, 2015). These estimates correspond to data provided by the Eurostat (see Table 3).

the workforce (*ibidem*). One reason why TAWs are not used more frequently is the practice of concluding agreements on business cooperation between two employers, which allow employers not to respect working standards which apply to TAWs. The Labour Inspectorate views such practice which lowers the costs of both employers as problematic.<sup>25</sup> However, at the moment this practice is not illegal.<sup>26</sup> In Croatia the TAWs mostly have lower qualifications while workers with higher qualifications are rare. This differs from the situation in most developed countries which have much higher proportions of TAWs with higher qualifications (Interview with the CEA's Legal Department, 2015).

### Seasonal work

The characteristic of Croatia and other Mediterranean countries is demand for flexible employment in tourism and catering industry, but also in construction and agriculture. Therefore, employment rates during the summer season differ compared to rest of the year by 3-4% (Interview with the CES, 2015).<sup>27</sup>

The institute of the permanent seasonal work has first been introduced in 2001 by means of changes to the Labour Act. A fixed-term employment contract for the permanent seasonal job obliges the employer to pay contributions for his/her seasonal worker throughout the year (Art. 16), unlike the regular fixed-term employment contract. Additionally, contract for the permanent seasonal job obliges the employer to offer his employee a new employment contract for the next season (Art. 16). If a worker declines the employment contract without objective grounds, the employer has the right to refund his paid contributions. The Law allows prolonged working time of the seasonal worker to the maximum total duration of 60 hours a week (Art. 67) but in this case worker's written consent is needed. Article 74 of the Labour Act prescribes a shorter period of rest for a seasonal worker compared to regular worker (minimum daily rest period of 8 consecutive hours) and a compensatory rest rights.

The institute of the permanent seasonal work is problematic from perspectives of both the employer and the worker. On the one hand, it obliges the employer to offer a job to a worker even though he/she cannot be sure how successful the next season will be. On the other hand, workers are less motivated to accept another (perhaps more lucrative) job offer because in that case they must refund paid contributions to their previous employer (Ribičić and Jovanović, 2012).

The Autonomous Trade Union of Tourism and Services (STUH) recently negotiated collective agreement for the permanent seasonal employment. Among other things, this agreement prescribes: employers' contributions to the workers' medical and pension insurance, deadlines for offering the renewed employment contract as well as conditions for repayment of the contributions (EFFAT, 2012).

### Telework – alternative workplace

Around 2-3% of employees report working from home, but the share of these employees during the crisis has decreased by about one-third (Franičević and Matković, 2013, 85). Some

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<sup>25</sup> Compared with other post-transition countries Croatia has relatively high labour costs which are not entirely harmonized with its productivity (Tomić, 2015, 39).

<sup>26</sup> Up to 80,000 additional jobs are created (Interview with the Ministry of Labour, 2015).

<sup>27</sup> In this context it should be noted that in the tourism sector in Croatia the nonstandard or precarious workers are particularly widely spread. This was emphasized by representative of the Tourism and Services Trade Union of Croatia at the conference "Precarious work in Croatia - work is not a commodity" held in Zagreb on the 6th October 2015 in organisation of UITUC.

of the advantages of this form for the employers include: easier access to talented workers and new jobs in smaller regions, increased productivity and lower initial investment in hiring as well as generally reduced costs. On the other hand, such employees are in better position to balance their private and working life, benefiting from the flexible working hours and saving time spent on commuting. Such type of work could also be appropriate for integration of workers with physical disabilities (Lipnjak, 2012, 24). However, the Labour Act (Art. 17) is considered to be inflexible regarding employers' obligations towards workers in the alternative workplace (Novaković, 2013b, 41).

### Self-employment

According to the Croatian Bureau of Statistics, self-employed are employers who run an enterprise and employ one or more employees, as well as own-account workers who have no employees (Statistical Yearbook of the Republic of Croatia, 2013, 136).<sup>28</sup> Other approaches to this form of employment include also members of producers' cooperatives and unpaid workers, i.e. family members who are unpaid but participate in the revenue generated by the company. The later form of work is particularly spread in the agriculture and in retail (Kulušić, 2009, 107). In 2014, the number of newly self-employed persons, according to the data of Croatian Employment Service was 4,489 and accounted for 2% of the total number of newly employed. In the first quarter of 2015, number of the newly self-employed persons was 1,509 or 1.9% of the newly employed. The lack of clear definition of self-employment also entails a phenomenon of bogus self-employment for which there are no statistical estimates.<sup>29</sup>

### Work outside of employment relationship

There are three forms of work contracts outside of employment relationship: contract for work (service), the author contract for work and the student contract for work. Most important is the service contract, since the other two could be regarded as its derivatives, although they are defined by different acts. Work contracts outside of employment relationship are highly precarious in all aspects because protection of workers' rights provided through the Labour Act does not apply to them. Some workers that work on contracts outside of employment relationship could be characterized as bogus self-employed. Despite the fact that engagement of such workers has characteristics of regular employment, they work on these highly precarious contracts without rights and guarantees emerging from employment relationship. Such practice is forbidden by law but it cannot be easily prevented (Matković, 2009, 157).

Under contract for work (service), by the Civil Obligations Act (Official Gazette 125/11), the contractor undertakes to carry out certain work, in exchange for the price that the ordering party agrees to pay (Art. 590). While content of the standard employment contract implies permanently and continuously doing concrete jobs within specific job position, the content of the contract for work entails the execution or making of the exact and concrete work product. Another difference between the two is the manner of performing the job. While within the standard employment contract, employee has an obligation of performing the work

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<sup>28</sup> For the number of self-employed individuals see Table 3.

<sup>29</sup> The trade unions note that lately the phenomenon of bogus-self-employment has been spread in the media industry. Namely, there is evidence that journalists who used to be employed for certain media companies as regular workers are now forced to start their own business in order to continue their business engagement (Interview with the ITUC's Secretariat, 2015).

personally, within the contract of work that isn't necessary, and the work can be done via the third party (Gotovac, 2011a, 16). The only Labour Act provision concerning protection of such workers could be found in Article 10 which indicates that if the contract has features of employment, due to the nature and type of work, it will be treated as the employment contract, unless proven otherwise. This provision is aimed at preventing fictitious contract for work agreements. However, in reality findings of the Labour Inspectors indicate that there is still a fair number of unlawfully concluded contracts for work (Tadić, 2013, 4).

Same as the contract for work, the author contract for work is taxed as the second income. This type of contract could be used for the works defined as the "copyright work" in Article 5 of the Copyright and Related Rights Act (Official Gazette 127/14). This act defines the copyright work as an original intellectual creation in the literary, scientific and artistic domain, having an individual character, irrespective of the manner and form of its expression, its type, value or purpose. In terms of obligations for the employers there is a clear difference between the contract for work and the author contract for work. According to the Contributions Act (Official Gazette 143/14) by using the former the employer is required to pay certain contributions to the state, while the use of later is not tied to any such requirements. Therefore, employers frequently try to present certain work as falling into domain of the author contract for work.

According to the Scientific Activity and Higher Education Act (Official Gazette 101/14) regular students have the right on employment through special legal persons, i.e. the student centres which are in charge of issuing the contracts for the work of students. According to the data of the Ministry of Science, Education and Sports in 2014 there were 75.435 students working on such contracts, which is close to 65% of all regular students (Mrnjavac, 2015, 100). The problem here lies in classification of the work of students in the domain of work outside of employment relationship. Namely, by its content work done by the students usually corresponds to work performed on standard employment contracts. The only difference is the duration of employment, since the student work is usually of short duration (Rožman, 2013, 11). Additionally, students cannot perform tasks without compensation, which is possible within framework of contract for work where the person is paid according to result of work and not for the work itself (Gotovac, 2011a, 17). Students working on the student's contracts are cheap for the employers. Payment of their salaries is not linked to paying the income tax, or the related surtax, but only to the commission and reduced pension and health insurance contributions (ibidem, 18). It is therefore not surprising that the use of students' contracts in the catering industry increased, after in that sector the Fiscal System Act (OG 133/12) made the work through informal economy much more difficult (Interview with the CES, 2015).

### I. 3. Concluding evaluation

On numerous occasions since its introduction in 1996 Croatia changed and amended its Labour Act, which represents the most important legislative act governing employment relationship in the country. Most of these changes had no significant impact on the flexibility of Croatian labour market as they used to be related primarily to harmonization with the EU *acquis*, which marginally addresses this issue. However, the EU accession process still directed Croatia towards greater labour market flexibility, because in its numerous documents the European Commission (same as many other international organizations) frequently criticized the perceived rigidity of the countries' labour market. The flexibility related changes in the Labour Act have always been introduced upon the initiative of the government. Still, the social partners actively participated in introduction of these changes, often by expressing quite opposing and conflicting views. The general position of the trade unions has always been along the line that introducing further flexibility cannot solve the problem of high unemployment and insufficient foreign investments. In their view, the Croatian labour market only needed better implementation of existing legal framework, while introducing new forms of nonstandard work disrupts the established balance between capital and labour, in favour of the former. Therefore, the general strategy of the trade unions always aimed at reducing the nonstandard or precarious work on Croatian labour market. The employers, on the other hand, argued that increased flexibility is needed for uninterrupted business activities and that not following the European and world trends in that respect makes Croatia less competitive. They also claimed that the nonstandard or flexible forms of employment are indispensable, due to excessive legal protection provided to workers on standard open-ended contracts. It could therefore be concluded that the general employers' strategy towards the nonstandard work has always been targeted at its further expansion.

With respect to forms of the nonstandard or precarious work it should be underlined that the crisis resulted in significant increase of the fixed-term work, which represents the most widespread form of the nonstandard employment in Croatia. In fact, the fixed-term work became dominant form of new employment in the post crisis Croatia. Furthermore, some categories of workers such as youth were over proportionally effected by the increase of fixed-term employment. The crisis resulted in significant increase of the agency work as well, although its usage still lays significantly below the EU average. This could be explained with the relative scarcity of production facilities financed by the foreign capital, which use a lot of agency work, and could change in the future. In the area of part-time work Croatia registers declines which is contrary to the general EU trends. This however is also likely to change, since it used to be connected to pre 2014 legislative imperfections, which made such work too expensive for Croatian employers. The number of self-employed individuals recorded sharp decline in the post 2008 period, due to their comparatively high exposure to impacts of the crisis. Namely, the crisis related job losses were experienced by the self-employed and the private sector, while the public sector remained protected, and even recorded some minor increases in employment. For the phenomenon of bogus self-employment in Croatia there is at the moment no reliable statistical data. However, this form of the nonstandard or precarious work generally seems less spread then in most other EU member states. The use of different forms of work outside of employment relationship also seem to be increasing, but statistical information is mostly unavailable. High youth unemployment in the country



constrained the government to introduce the scheme of “occupational training without commencing employment”. Since 2010 the number of persons passing through this scheme has constantly been rising.

## Part II: Facing precarious employment in selected sectors

### II. 1. The system of industrial relations in Croatia

According to the 2012 data, total membership of the four representative trade union confederations was 331,939. However, the number of members of trade unions not affiliated with confederations is hard to determine (Šeperić, 2015). It is estimated that the general trade union density in Croatia is slightly below 30%, with decreasing trend (*ibidem*). There is around 570 collective agreements currently in force in Croatia, most of which are applicable to the area of only one county (*ibidem*). The coverage with collective agreements at the beginning of 2015 was around 40%, which is much lower compared to before the crisis when it used to be around 60%.<sup>30</sup> Generally, huge differences exist between collective bargaining coverage in the public sector in wider sense (68%) and the private sector (17%). The same applies for the privatized companies (31%) and newly established companies in the private sector 9% (Bagić 2010, 256). Due to often extend application of the sectoral collective agreements, most workers are covered only by such agreements. However, since outbreak of the crisis a growing trend of concluding company level agreements combined with reluctance to conclude new sectoral agreements, could be observed Miličević Pezelj, 2012, 7-12).

Fragmentation of the trade union scene and unity of employers represents an important characteristic of industrial relations in Croatia. According to the Act on Representativeness (OG 93/14, 26/15) four trade union confederations fulfil the representativeness criteria for collective bargaining. These are: the Independent Trade Unions of Croatia (ITUC), Union of Autonomous Trade Unions of Croatia (UATUC), MATICA – Association of Croatian Trade Unions (MACT) and Croatian Trade Union Association (CTA). Croatian Employers' Association (CEA) is the only representative employers' association. It has over 6,000 members which employ 400,000 workers.

The Economic and Social Council (ESC) represents the highest form of the tripartite social dialogue in the country. This is an advisory body consisting of representatives of the Government, higher level employers' associations and trade union confederations which fulfil representativeness requirements. Same as Slovenia, Croatia adopted a dual system of workers' representation. This means that workers are represented by the trade unions and by the worker councils which complement work of the trade unions (Butković, Samardžija and Tišma, 2012).

Weakening of the social dialogue as an instrument in policy making can be observed as a consequence of the economic downturn. The government frequently engaged in unilateral decisions, while the focus of collective agreements shifted from wages and other material rights to keeping employment (*ibidem*). The general elections held in November 2015 resulted in defeat of the ruling social-democrats and victory for the conservatives. In this context, the social dialogue at the national level is likely to experience additional temporary slowdown. Namely, in the post-election period the focus of the government (especially when former opposition comes to power) is always placed at formation of the new ministries and other state bodies, which limits its capacities for active engagement with the social partners.

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<sup>30</sup> Presentation of preliminary research results by Prof. Dragan Bagić at the conference “Collective bargaining in Croatia and Europe today“ Zagreb 14 October 2015.

## II. 2. The construction sector

### 2.1. General trends

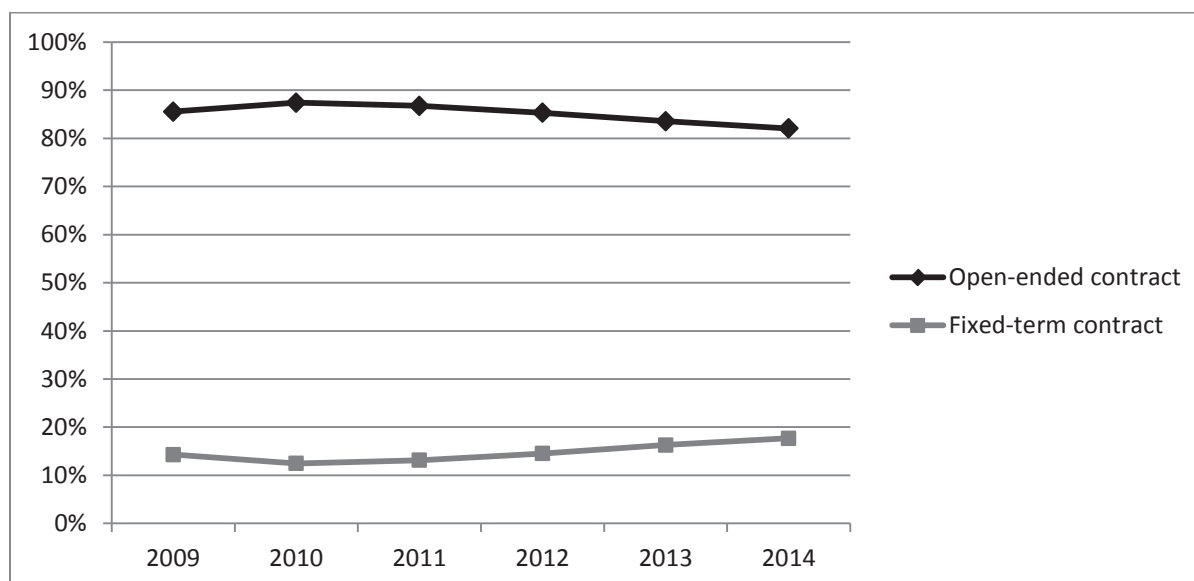
The construction sector in Croatia underwent great expansion from the year 2000 until 2009 when the crisis struck. During this period Croatia significantly increased the number of its housing units and the major project of building national highways was implemented. However, in the post 2009 period the sector experiences sharp decline of employment, more than 40%. It marked successive decline of employees, from 100,825 in 2009 to 60,137 in 2014. In addition, the trend of successive decline of employees with open-ended contract was also recorded, falling from 86,248 in 2009 to 49,349 in 2014. The number of employees with fixed-term contracts followed the same declining pattern since 2009 for two years, while in 2012 employment with fixed-term contracts started to increase and in 2014 it amounted to 10,637. From observing the contractual working time in the construction sector, it is evident that the full-time contracts are in consecutive and sharp decline (from 100,287 in 2009 to 59,406 in 2014) while the part-time contracts registered an increasing pattern (from 419 in 2009 to 669 in 2014).

**Table 4: The precarious forms of employment in the construction sector in Croatia** (number of persons in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
<b>Total number of employed persons</b>	100,825	86,015	75,045	70,001	65,113	60,137
<b>Type of employment</b>						
Open-ended contract	86,248	75,161	65,087	59,720	54,398	49,349
Share of open-ended contracts	85.54%	87.38%	86.73%	85.31%	83.54%	82.06%
Fixed-term contract	14,419	10,722	9,865	10,179	10,622	10,637
Share of fixed-term contracts	14.30%	12.47%	13.15%	14.54%	16.31%	17.69%
<b>Contractual working time</b>						
Full-time	100,287	85,435	74,489	69,282	64,470	59,406
Part-time	419	466	497	654	614	669

Source: Croatian Bureau of Statistics (compiled by the authors)

**Figure 1: Share of open-ended and fixed-term contracts in the construction sector in Croatia**



According to Croatian Bureau of Statistics in 2013 the construction sector participated in Croatian GDP with 4.5 per cent (CBS, 2015). The Act on Pre-bankruptcy Agreement (OG 108/2012)<sup>31</sup> affected great deal of construction companies. In fact, close to 40% of companies where the Trade Union of Construction Industry of Croatia - TUCIC<sup>32</sup> is organized, have been affected by this legislation. The Act considers claims made by the workers as priority in relation to the claims made by the creditors. However, in reality there are numerous problems in correct implementation of these provisions (Interview with the TUCIC, 2015).

Majority of construction companies operating in Croatia are in private ownership (97.9%), while 0.9% represents cooperatives. In the state ownership is 0.6% while 0.6% is in mixed ownership (CCE, 2015a). In the period 2008 – 2014, the number of all self-employment persons in construction sector recorded sharp decline. According to the Eurostat data (2015n), the number of self-employed persons in the construction sector decreased repeatedly, from 32,300 in 2008 to only 17,300 in 2014.

## 2.2. Qualitative analysis

### *Types of precarious employment in the construction sector*

<sup>31</sup> The aim of this act was to allow financial restructuring to a firm which is about to declare a bankruptcy. The procedure is meant to secure solvency of such firm and also to create better conditions for paying off the creditors and the workers than that would be the case if bankruptcy were declared.

<sup>32</sup> TUCIC is a sectoral trade union operating within the Union of Independent Trade Unions of Croatia which is one of four representative trade union confederations in the country. The TUCIC has 7,080 members (January 2015) which is around 11% of employed workers in the construction sector. The ratio between standard and nonstandard workers' members of the trade union is similar to the general ratio between these categories at the level of the sector as a whole (Interview with the TUCIC, 2015).

Fixed-term contracts represent the most wide spread form of nonstandard or precarious work in the construction sector and they are frequently used contrary to provisions of the Labor Act (Interview with the TUCIC, 2015). The first kind of misuse concerns practice of concluding fixed-term contracts for a very short time period (one or two months) despite the fact that objectively such contracts could be concluded for a longer time periods. Such practice provides employers with flexibility but at the same time places workers in a position of great uncertainty. Secondly, some employers attempt to circumvent the Labour Act provision which as a general rule limits the use of fixed-term contracts to a period of three years. In order to avoid the obligation of employing workers on open-ended contracts after expiry of three years, some employers transfer such workers to the other companies functioning as part of the same grouping or owner. These workers continue to work as previously but legally they have a different employer which disables them from claiming open-ended contracts.

The mentioned infringements represent a legislative problem and point towards the need for better defining in the Labour Act of the situations and time periods when a fixed-term contract can or cannot be used. They also point towards a problem of understaffing in the Labour Inspectorates which lacks human capacity for efficient controls in construction sector (ibidem). The employers justify excessive use of the fixed-term contracts by arguing that the Labour Act is too rigid, which makes firing of workers very difficult. They also point towards practice of Croatian courts which in case of labour disputes usually rule in favour of the workers, despite fact that quite often such workers committed serious work related offenses (Interview with the CEA's Department for Construction, 2015).

Part-time employment is present in the construction sector, but there is also a lot of evidence of misuse. There are cases where workers have contracts for part-time but actually work full-time or even more (Interview with the TUCIC, 2015). This kind of irregularity is closely linked to public procurement practices, where prices which are being offered often tend to be below the real market price. This is recognized as a serious problem by both social partners (Interviews with the TUCIC and the CEA's Department for Construction, 2015). In order to address this issue the Trade Union of Construction Industry of Croatia (TUCIC) advocates the set-up of the price of work at the level of construction sector as a whole, which would limit unfair competition based on saving on workers' pays (ibidem).

According to estimates made by the TUCIC, some 30-35% of the overtime work in the construction sector is not paid. This they claim is a result of unsatisfactory registration system of the overtime work. When negotiating collective agreements, the trade unions always insist on written announcement of the overtime work. However, this is rarely accepted by the employers, because according to the sectoral collective agreement for construction such work needs to be paid 50% more. It should be underlined that irregularities in working time of construction workers are often connected to the seasonal character of construction and unpredictable weather conditions. The employers are driven by their investors and they cannot always strictly follow initially agreed work plans. Namely, work needs to be delivered on time in spite of unfavourable weather conditions which prevent work on construction sites (Interview with the CEA's Department for Construction, 2015).

Other forms of nonstandard work such as self-employment or temporary agency work are not so common in Croatian construction sector. However, subcontracting is wide spread and it is quite common that a larger company which executes works on construction site employs only around 10% of workers, while all other works are done by smaller firms through

subcontracting. This again results from the public procurement rules allowing all firms in Croatia to apply to public tenders, regardless of their capacities (Interview with the TUCIC, 2015). Work abroad is frequent in the construction sector and it represents additional source of precarious employment. Workers that work abroad (particularly in non-EU countries) are frequently confronted with the problem of belated or even non-existent payments and the trade unions have very little instruments to protect them (ibidem).

Both the trade unions and the employers indicate that work in informal economy is widespread and represents very serious problem, particularly having in mind health and safety aspects of work on the construction sites. Work in informal economy explains the phenomenon that today qualified construction workers are in great demand, despite the fact that due to crisis the number of construction workers was reduced more than 40% (Interviews with the TUCIC, the CEA's Department for Construction and the Adecco Croatia, 2015).

#### *Initiatives of the social partners related to precarious work in the construction sector*

The trade unions and the employers are very active in collective bargaining at both the company and the sectoral level. At the company level in construction sector there are altogether 38 collective agreements concluded by the TUCIC (TUCIC, 2011). However, not all of these agreements were concluded with the companies affiliated with Croatian Employers Association, which makes collective bargaining more difficult for the trade union (Interview with the TUCIC, 2015). Due to crisis some material rights of workers guaranteed by collective agreements were reduced, as an alternative to firing workers which are later difficult to re-hire again (Interview with the CEA's Department for Construction, 2015).

The sectoral collective agreement for construction is an open-ended agreement which exists since 2002 (OG 04/02). Altogether the agreement was amended eight times (last time in 2015) and after each amendment, it was extended by the Minister of Labour (OG 134/15). The practice of extending the collective agreement is strongly advocated by the social partners as instrument for fighting unfair competition and the dumping prices (Interviews with the TUCIC and the CEA, 2015). In 2014 the coverage with collective agreements in the construction sector was 18.2%.<sup>33</sup>

The sectoral collective agreement for construction is the only sectoral agreement, in an area which is predominantly in private ownership,<sup>34</sup> which includes pay tariffs according to the degree of job complexity. It contains pays for ten different job categories and not just the minimal pay, like in most other sectoral collective agreements (Interview with the TUCIC, 2015). The agreement (Art. 4) explicitly notes that it applies to all workers regardless of the type of their contract (open-ended or fixed-term) or working time (full-time or part-time). However, like in the company level agreements, the sectoral agreement doesn't have any provisions which address only the nonstandard workers (OG 142/13).

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<sup>33</sup> Presentation of preliminary research results by Prof. Dragan Bagić at the conference "Collective bargaining in Croatia and Europe today" Zagreb 14 October 2015.

<sup>34</sup> 95% of the companies operating in construction sector are in private ownership (Interview with the TUCIC, 2015).

Through its participation in the Economic and Social Council<sup>35</sup> TUCIC, in cooperation with other trade unions, influenced legislative changes which directly or indirectly concern the nonstandard work. In 2011 the trade unions managed to amend the Penal Code (OG 125/11) which defined failure to pay salaries to workers as criminal activity (Art. 132). Furthermore, in 2012 changes to the Foreclosure Act (OG 112/12) were introduced which shortened and simplified the foreclosure procedures, which in the crisis period hit numerous construction companies (*ibidem*).

The sectoral social dialogue intensified since September 2012 when the Sectoral Council for Construction was established, as a special bipartite body for promotion of the sectoral social dialogue. The Council was established upon the initiative of TUCIC. The results of the bipartite dialogue show that the trade unions and the employers have very similar standpoints on the issues such as health and safety measures, parity funds, vocational training and the fight against informal economy. However, their positions are polarized on the issues of material rights of workers and nonstandard work (Interviews with the TUCIC and the CEA's Department for Construction, 2015). Regarding later employers are primarily advocating for more flexibility in legislative regulation of the existing types of nonstandard work, while they are less interested in introduction of completely new work forms. The reasons for this caution are specificities of the construction sector which is very mobile and therefore more exposed to possible misuses connected to further deregulation (Interview with the CEA's Department for Construction, 2015).

In cooperation with the Union of Independent Trade Unions of Croatia (which is a trade union confederation it affiliates with) the TUCIC every year participates in a campaign against failure to pay workers' salaries. As a part of this campaign the TUCIC has made a list of 9,000 companies which regularly fail to pay the salaries to their workers (Interview with the TUCIC, 2015). Within this campaign TUCIC insists on the legislative changes which would oblige employers to pay salaries to their workers concurrently with paying contributions to the salaries. The campaign also calls upon legislative modifications which would abolish the practice by which the pre-bankruptcy procedures block payment of workers' salaries and other workers' claims (TUCIC, 2014).

Since 2014 TUCIC and Croatian Employer's Association jointly implement the bipartite action "Fair Prices in the Construction Sector – Safe Working Places the Future of Construction". The initiative insists on the legislative changes addressing the unfair competition from the informal economy and the current practices in public procurement. As a part of this action the social partners ask for the extension of the sectoral collective agreement and for banning the employment of construction professionals through temporary agencies. It is argued that temporary agencies are not in a position to provide employers with construction professionals, which are highly demanded on the labour market (*ibidem*).

The number of strikes organized by TUCIC has been increasing every year since 2008. The reason for initiation of these strikes were mostly failures to pay workers' salaries, belated payments of salaries and failures to assure other material rights of workers (Interview with the TUCIC, 2015).

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<sup>35</sup> The Economic and Social Council represents the highest form of tripartite social dialogue in Croatia. This is an advisory body consisting of representatives of the government, higher level employers' associations and trade union confederations which fulfil representativeness requirements.

### *2.3. Conclusions*

The construction was a sector that was hit the most by the economic crisis whose impacts almost halved the number of its workers. The crisis also increased the number of construction workers on fixed-term contracts compared to those with open-ended ones. However, probably the most negative consequence of the crisis was increase of the informal economy in the country. This, according to both social partners, explains difficulties in finding qualified construction workers on Croatian labour market, despite fact that thousands lost their jobs. The sectoral trade union is pursuing the strategy of inclusion towards nonstandard or precarious work.<sup>36</sup> The purpose of this strategy is reduction of nonstandard work to a level which could be justified by objective reasons. In the process of collective bargaining the sectoral trade union contracts the rights which are same for all workers and in political lobbying it insists on inclusion of nonstandard workers into standard employment. Since outbreak of the crisis the trade union organized an increasing number of industrial actions aimed at reducing precariousness of construction sector workers. In its' regular information and consultation activities the trade union addresses the problem of nonstandard or precarious work in the wider context, such as through advocating fair prices, naming and shaming of bad employers or reducing informal economy. The employers comply with many aspects of the pursued trade union strategy of inclusion towards nonstandard workers. The reasons for this could be found in numerous pressing problems which are shared by the social partners. The employers' association together with the sectoral trade union supports the practice of extending the sectoral collective agreement and changing the legislation in the area of public procurement. The reasons for this are pragmatic. Namely, the employers' association believes that improved legislation and general application of the sectoral agreement could protect its members from the dumping prices and other unfair business practices coming from the informal economy. Similarly, due to possible abuses, employers' association agrees with the trade union that agency work of construction professionals should not be allowed. However, based on economic considerations the employers' association opposes agreement to more generous material rights of workers in the sectoral collective agreement, fearing that this could endanger survival of some smaller companies. It also opposes changes to the current system of the overtime registration, advocated by the trade union.

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<sup>36</sup> This categorisation is based on Kahancová and Marišková (2011) which drawing from the Heery and Abbott (2000) distinguished five trade union strategies towards nonstandard workers: inclusion, separation, exclusion, reduction and elimination. For the purpose of the PRECARIR project this approach was slightly adjusted by viewing inclusion, separation and exclusion as distinct trade union strategies and reduction and elimination as the purpose of these strategies.



**Box 1. Quality of working conditions dimension – CONSTRUCTION SECTOR**

		Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining	
The formal employment status dimension	Open-ended contract	<ul style="list-style-type: none"> <li>- in constant decline</li> <li>- trend of introducing a part-time employment for employees with open-ended contracts</li> </ul>	<ul style="list-style-type: none"> <li>- minimum wages set by the sectoral collective agreement</li> <li>- belated payment of salaries in some companies</li> </ul>	<ul style="list-style-type: none"> <li>- over-time work common</li> <li>- trade unions claim that 30-35% of overtime hours are not paid</li> <li>- rescheduling of working hours</li> </ul>	<ul style="list-style-type: none"> <li>- moderate but lower than before the crisis</li> </ul>	<ul style="list-style-type: none"> <li>- in accordance with legal stipulation</li> </ul>	<ul style="list-style-type: none"> <li>- medium: many companies don't have the trade unions</li> </ul>	
	Fixed-term contract	<ul style="list-style-type: none"> <li>- in constant increase</li> <li>- many such contracts are concluded for a very short time period</li> <li>- many workers work on such contracts more than three years</li> </ul>	<ul style="list-style-type: none"> <li>- minimum wages set by the sectoral collective agreement</li> <li>- belated payment of salaries in some companies</li> </ul>	<ul style="list-style-type: none"> <li>- over-time work common</li> <li>- trade unions claim that 30-35% of overtime hours are not paid</li> <li>- rescheduling of working hours</li> </ul>	<ul style="list-style-type: none"> <li>- low: short duration of work contracts</li> </ul>	<ul style="list-style-type: none"> <li>- in accordance with legal stipulation but below the level for standard workers (no rights to severance pay or belated payments, lower chances of receiving the unemployment benefits)</li> </ul>	<ul style="list-style-type: none"> <li>- low: fixed-term employees don't usually join the trade union due to fear that their contracts will not be renewed</li> </ul>	
	(Author) contract for work	<ul style="list-style-type: none"> <li>- almost non-existing in construction sector</li> <li>- used for administrative work of retired employees</li> </ul>						
	Student contract	<ul style="list-style-type: none"> <li>- not relevant for construction sector</li> </ul>						

	Part-time contract	<ul style="list-style-type: none"> <li>- on the increase</li> <li>- there are cases when workers traded full-time contracts with part-time ones in order to continue working for the same employer</li> </ul>	<ul style="list-style-type: none"> <li>- dependent on working time</li> <li>- belated payment of salaries in some companies</li> </ul>	<ul style="list-style-type: none"> <li>- many employees working full-time which is not paid as such</li> <li>- overtime work common</li> <li>- trade unions claim that 30-35% of overtime hours are not paid</li> <li>- rescheduling of working hours</li> </ul>	<ul style="list-style-type: none"> <li>- moderate for workers on open-ended contracts but lower than before the crisis</li> </ul>	<ul style="list-style-type: none"> <li>- in accordance with legal provisions but below the level of full-time workers (very small pensions)</li> </ul>	<ul style="list-style-type: none"> <li>- medium: many companies don't have the trade unions</li> <li>- low for workers on fixed-term contracts</li> </ul>
	Temporary agency work	<ul style="list-style-type: none"> <li>- almost non-existing in construction sector</li> <li>- trade union and employers association against it</li> </ul>					
	(Bogus) self-employment	<ul style="list-style-type: none"> <li>- exists in a small part through cooperation work of small unregistered companies</li> <li>- connected to informal economy</li> </ul>					
	Occupational training without commencing employment	<ul style="list-style-type: none"> <li>- not relevant for construction sector</li> </ul>					
	Telework	<ul style="list-style-type: none"> <li>- not relevant for construction sector</li> </ul>					
	Seasonal work	<ul style="list-style-type: none"> <li>- construction is considered to be a seasonal activity but the institute of permanent seasonal work is not relevant for the sector</li> </ul>					

## II. 3. The metal industry

### 3.1. General trends

The metal industry is an export oriented sector of high capital intensity, mostly in private ownership, which like many other sectors has been hit by the crisis. In 2013 it had 21.94% share in industrial production (Interview with the CCE's Department for Metal Industry, 2015). In 2013 the whole sector had 3,774 companies which are mostly small and medium size, while there were only 24 big companies (ibidem). In January 2015 Croatian government adopted the Industrial Strategy 2014-2020 which recognizes metal industry as one of six advancing forces of Croatian economy (together with electrical industry, IT sector, pharmaceutical industry, food industry and wood industry).<sup>37</sup>

Important part of the metal industry is the shipbuilding which passed through demanding process of privatization during the EU accession. Restructuring of shipyards in difficulties is still underway with the aim of reaching the sustainability in production. Privatization and restructuring resulted in significant loss of jobs and reduction of production capacities.<sup>38</sup> Unfavourable factor was that the restructuring of shipyards coincided with the decrease of demand on the world market. Today five Croatian shipyards still employ significant number of around 6,500 workers and are present on the EU market. Despite major transformation, Croatian shipyards still hold the second place on the list of the European shipbuilding orders (13.9%) (Brnić, 2015). However, Croatia still has the obligation to regularly report to the European Commission about measures aimed at achieving sustainability of the shipyards as well as compliance with the EU production limits (ibidem).

The metal industry also includes ironworks (Split and Sisak) which went through privatisation and restructuring, similar to the shipyards. Within this process the ironworks reduced their production, changed several owners while one of them went through the bankruptcy procedures. However, since the EU accession there are signs that production in the ironworks is recovering, despite all mentioned difficulties (Brnić, 2014). The third important segment of the metal industry relevant for this analysis is production of motor vehicles. Apart from the moderate decrease of employment, it is profitable, export oriented activity with three strong producers (including the Đuro Đaković).

Since outbreak of the crisis the total number of persons employed in the metal sector recorded a constant decline, from 69,651 in 2009 to 55,555 in 2014 (some 20%). When observing the employment in the metal industry by two types of employment contracts it is evident that the number of employees with open-ended contracts significantly prevails. However, there is a trend of successive decline of such contracts (from 60,547 in 2009 to 44,071 in 2014). As a first reaction to the crisis there was a noticeable decline of fixed-term contracts (from 8,912 in 2009 to 7,004 in 2010) but in following years their number increased significantly, amounting to 11,421 in 2014. Full-time prevails as contractual working time. However, due to general fall of employment within metal industry, the number of full-time contracts decreased in the observed period, from 68,945 in 2009 to 54,914 in 2014. The

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<sup>37</sup> However, shipbuilding is not included in mentioned advancing forces. See Industrial Strategy of the Republic of Croatia 2014-2020.

<sup>38</sup> Due to the need for restructuring of shipyards and ironworks, the Chapter 8 – Market Competition was among most difficult chapter in the process of Croatia's EU accession.

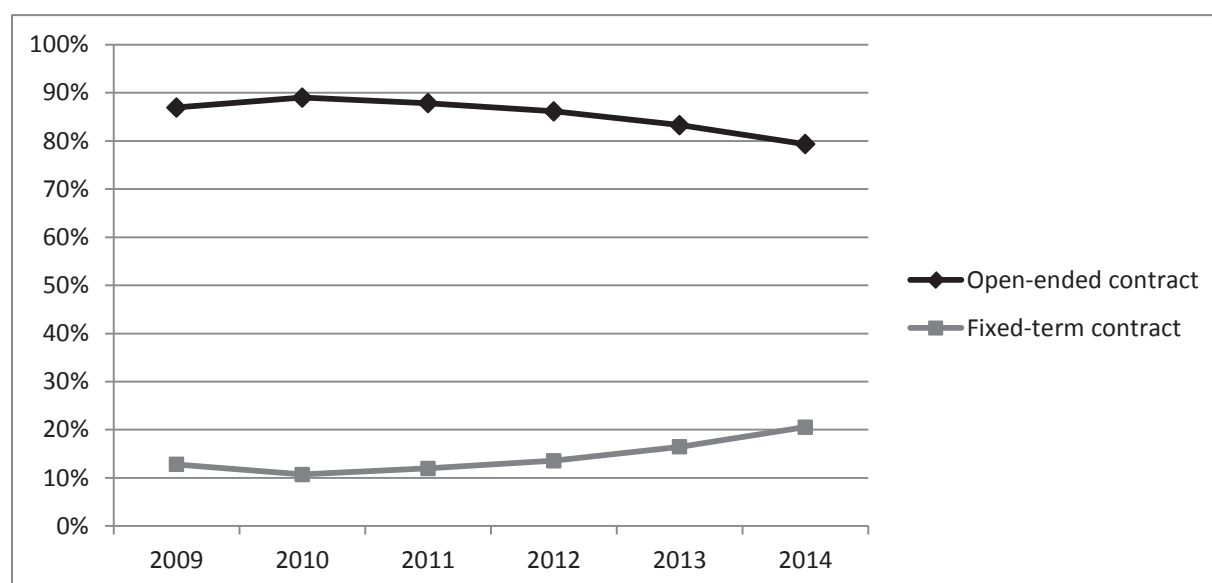
number of part-time contracts is rather low. There were only 665 part-time contracts in 2009. In the years that followed the number of part-time contracts almost halved but in 2014 it recovered back to 630.

**Table 5: The precarious forms of employment in the metal sector<sup>39</sup>** (number of persons in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
<b>Total number of employed persons</b>	69,651	65,447	63,838	61,352	59,538	55,555
<b>Type of employment</b>						
Open-ended contract	60,547	58,235	56,060	52,845	49,577	44,071
Share of open-ended contracts	86.93%	88.98%	87.82%	86.13%	83.27%	79.33%
Fixed-term contract	8,912	7,004	7,634	8,330	9,803	11,421
Share of fixed-term contracts	12.80%	10.70%	11.96%	13.58%	16.47%	20.56%
<b>Contractual working time</b>						
Full-time	68,945	65,106	63,335	60,966	59,130	54,914
Part-time	665	308	485	371	334	630

Source: Croatian bureau of statistics (compiled by the authors)

**Figure 2: Share of open-ended and fixed-term contracts in the metal sector in Croatia**



<sup>39</sup> Manufacture of basic metals; manufacture of fabricated metal products, except machinery and equipment; manufacture of machinery and equipment; manufacture of motor vehicles, trailers and semi-trailers; manufacture of other transport equipment; other manufacturing; repair and installation of machinery and equipment (according to NOC 2007).

### 3.2. Qualitative analysis

#### *Types of precarious employment in the metal industry*

The consequences of the economic crisis resulted in an increase of the nonstandard or precarious work in the metal industry, but not as sharp as in some other sectors (Interview with the CEA's Department for Metal Industry, 2015). This could be attributed to the fact that its' export oriented profile preserved the metal industry from most severe impacts of the economic crisis (Interview with the CCE's Department for Metal Industry, 2015). The most common form of nonstandard work is employment on fixed-term contracts which is unfavourable in terms of material rights of workers. Namely, collective agreements concluded by the Metalworkers' Trade Union of Croatia (MTUC)<sup>40</sup> include pay raises of 0.5% on yearly basis. This in practice means that many fixed-term workers with large gaps between periods of employment work for very low salaries. Furthermore, such workers face difficulties in claiming other material rights such as Christmas bonus, recourse for the annual vacation, the jubilee bonuses etc. (Interview with the MTUC, 2015). In some collective agreements MTUC managed to limit the number of workers that can be employed on fixed-term contracts to 20-25% (ibidem). As a general rule in larger companies (such as Đuro Đaković) the trade unions are active and rights of fixed-term and other precarious workers are being respected. On the other hand, in smaller companies there are usually no trade unions and therefore fixed-term workers face difficulties claiming their rights. In some rare cases fixed-term employment is related to the seasonal character of production.<sup>41</sup>

Temporary agency workers are rare in the metal industry but nonetheless in many company-level collective agreements MTUC managed to include the rule that such workers should not exceed 5-10% of the total workforce (ibidem). In most of its company-level collective agreements, the MTUC managed to include a provision specifically saying that apart from workers on open-ended contracts, the concluded agreement also concerns fixed-term workers, workers that work from home, part-time workers and TAWs. However, it seems that these workers are often not aware of their rights (ibidem). Specific mentioning of the TAWs in the company level collective agreements could become legally problematic, since the new Labour Act introduces a possibility of concluding separate collective agreements with such workers. So far there are no examples from practice on how this could be addressed (Interview with the Adecco Croatia, 2015).

Non-payment of salaries represented serious problem in some parts of the metal industry (shipyards and ironworks) but after consolidation of business activities the situation is improving regarding on time payment of salaries (Interview the CEE's Department for Metal Industry, 2015).

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<sup>40</sup> MTUC is a sectoral trade union operating within the Union of Independent Trade Unions of Croatia which is one of four representative trade union confederations in the country. The MTUC has around 13,000 members and they are overwhelmingly standard workers on open-ended contracts. In the companies where MTUC is organized on the average 42% of workers are MTUC members, but the general trade union density in these companies is even higher because some workers are members of other smaller trade unions. Collective agreements concluded by the MTUC apply to cca. 40,000 workers (Interview with the MTUC, 2015).

<sup>41</sup> According to MTUC numerous workers of the. "Đuro Đaković Agricultural Machinery and Appliances" from Županja work only during the production season (3-6 months a year).

The overtime work is common in the metal industry and it represents the issue of significant confrontation between the social partners. The MTUC is not in favour of the new Labour Act provisions (2014) which increased the possibilities of using the overtime work. The employers on the other hand see the overtime work as essential for uninterrupted functioning of production. Therefore, whenever negotiating collective agreements they advocate for the maximal usage of the overtime work (250 hours a year). Similar to the overtime work, positions of the social partners are very much opposed on the issue of unequal distribution of working time, which was introduced with the 2014 Labour Act. While employers advocate for even greater deregulation, for the trade unions current legislation is too liberal (Interviews with the MTUC and the CEA, 2015).

In the metal industry there are factories working in three shifts due to lower prices of electricity during the night or because type of production in these factories requires continuous operation of machinery. However, it cannot be said that workers who work the third shift work in precarious conditions, because night work is regulated through legislation and collective agreements (Interview the CCE's Department for Metal Industry, 2015).

Subcontracting represents essential part of production in the metal industry. The work which is small in volume needs to be handed out to subcontractors because otherwise factories would not be able to work in full capacities which would increase the production costs (ibidem). In most cases subcontractors are limited liability companies or crafts and sometimes they are self-employed. However, in most cases self-employed subcontractors carry out work for more than one company and as such they cannot be categorized as bogus self-employed (Interview with the CEA's Department for Metal Industry, 2015). Within metal industry subcontracting is most widely spread in the shipbuilding. Therefore, national collective agreement for the shipbuilding industry obliges companies to provide all information which relates to subcontracting to the trade union representative. Referring to this provision in 2010 the MTUC managed to negotiate reduction of the amount of subcontracting in the Viktor Lenac shipyard, where hourly costs of work among subcontractors exceeded equivalent costs of work performed by the shipyards employees (Interviews with the MTUC and the CEA's Department for Metal Industry, 2015).

#### *Initiatives of the social partners related to precarious work in the metal industry*

The social partners are very active in negotiating collective agreements at the company level. At the moment the MTUC has close to 100 such valid agreements (Interview with the MTUC, 2015). Due to impacts of the crisis many employers which found themselves in difficulties demanded changes in collective agreements from the MTUC. Namely, the reduction of workers pays by 10-15% or cancellation of certain bonuses. As a response, the MTUC has organised workers' meetings where workers decided on how to proceed. In most cases the employer's demands were accepted and the MTUC concluded separate agreements reducing or cancelling some material rights for a certain period of time. The MTUC estimates that with this practice close to 35,000 working places have been preserved as well as one third of its collective agreements (ibidem). The biggest problem for the MTUC in negotiating collective agreements is the fact that many employers are not members of Croatian Employers' Association which further complicates negotiations. The only provisions at the company level collective agreements which refer to precarious workers concern limitations on the overall numbers within certain categories of such workers.

The sectoral level collective agreement for the shipyards was concluded in 1996 for an open-ended period and it is still valid (*ibidem*). It was concluded on the initiative of the MTUC and the Trade Union of the Shipyard Workers in five Croatian shipyards. It regulates: working time, annual leaves and holidays, protection and safety at work, pays and salaries, other material rights of workers as well as work conditions for the trade unions. The collective agreement applies to all workers regardless of the type of their contract or working time (Collective Agreement for the Shipyards, 1996).

The general sectoral level collective agreement for the metal industry has never been concluded. In 2006 the MTUC started to negotiate this agreement with the Croatian Employers' Association (CEA), but negotiations proceeded slowly, mostly because the CEA is less than 15% representative in the metal industry sector (Interview with the MTUC, 2015). In the sectoral agreement the CEA would like to specifically regulate the rights of trainees and it stands on a position that all material rights of workers need to be determined in proportion to the working time. The agreement is still far from being finalized (Interview with the CEA's Department for Metal Industry, 2015). Both social partners stand on a position that once concluded such sectoral agreement needs to be extended to the whole sector, in order to set the minimal standards and fight the unfair competition (Interviews with the MTUC and the CEA's Department for Metal Industry, 2015).

The MTUC and the CEA participate in the tripartite group which monitors implementation of the new Labour Act. Within this process the MTUC, likewise other sectoral trade unions, on a yearly basis collects information about the number of nonstandard workers from its representatives on the ground and provides them to the Ministry of Labour (Interviews with the MTUC, the CEA's Department for Metal Industry and the Ministry of Labour, 2015). However, social partners in the metal industry sector are generally not satisfied with the degree of their influence over strategic acts and legislation in the process of enactment and implementation (Interviews with the MTUC and the CEA's Department for Metal Industry, 2015). The employers complain that the experts from the sector are not always included in working groups for drafting the legislation. Furthermore, they note that the impact assessment of legislation is often being implemented formally, without real evaluation of the costs on the economy, which frequently causes financial losses and problems in implementation. An example here is enactment of the Act on Employment of People with Disabilities (OG 157/13, 152/14), which initially prescribed that industrial company must employ at least 6% of workers with disabilities, in order to avoid fining. Upon request of the CEA the percentage was reduced to 3%, but even that proved unrealistic because qualified workers with disabilities are not easy to find on the Croatian labour market (Interview with the CEA's Department for Metal Industry, 2015). Regarding the bipartite social dialogue, it must be underlined that unlike in some other areas the Sectoral Council for the Metal Industry is still in process of establishment.

Social partners established strong cooperation in the area of life-long learning and vocational training. Shortage of the qualified and skilled metal industry workers is significant. Therefore, social partners seek to influence the education system through Croatian Qualifications Framework<sup>42</sup>. Their aim is to make Croatian education system more flexible

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<sup>42</sup> The Croatian Qualifications Framework is a reform instrument for regulating the system of qualifications at all levels in the Republic of Croatia through qualifications standards based on learning outcomes and following

and better adjusted to the labour market needs in the metal industry sector (Interview with the CEA, 2015). In May 2015 the MTUC, the CEA, the metal industry company Đuro Đaković and the Uljanik shipyard established the Centre of the Metal Industry Competences at Đuro Đaković – CEMEKO. This is an association which works at connecting education institutions with employers which express needs for training of their workers. CEMEKO also supports development of educational programmes based on the needs of the metal industry companies (CEMEKO Press release, 2014). Through CEMEKO the CEA will support development of nonstandard forms of employment in the metal industry sector. They note that mobility of workers between companies is currently low and CEMEKO could contribute in resolving this problem, to the benefit of both employers and their workers (Interview with the CEA's Department for Metal Industry, 2015).

The Act on Job Retention Subsidy (OG 94/09, 88/10) was enacted in 2009. It allowed compensations to employers that were forced to shorten working time of their full-time employees to 32 hours weekly. A number of companies in the metal industry benefited from this legislation (ibidem), despite the fact that eligibility criteria were restrictive and incentives provided to employers limited (Gotovac, 2011b). In 2014 this legislation was replaced with the new Act on Job Retention Subsidies (OG 93/14) which simplified the procedure of claiming compensations and proved as more cost-efficient (see Part I).

### ***3.3. Conclusions***

Like in other sectors, the overall number of metal industry workers was reduced due to crisis and the percentage of nonstandard or precarious (mostly fixed-term) workers compared to standard workers has changed in favour of the former. However, compared to other sectors also predominantly in private ownership, the increase of the nonstandard work was moderate, because metal industry's export oriented production saved it from stronger negative impacts of the economic crisis. When it comes to collective bargaining the sectoral trade union adopted a strategy towards nonstandard workers which combines the elements of inclusion with those of a separation. The separation elements of that strategy are visible from the fact that in many of its company-level collective agreements the trade union inscribed limitations to employment of different types of nonstandard workers. In this way, the trade union started to treat these workers as particular group that requires a particular attention and action. The purpose of the pursued trade union strategy is reduction of nonstandard work in the metal industry sector, i.e. compelling employers to employ workers on open-ended contracts. For employer's association complying with the described trade union strategy in the sectoral collective agreement (which is currently being negotiated) could prove difficult due to economic considerations. Another stumbling stone with respect to sectoral agreement are material rights of workers and distribution of working time, where positions of employers' association oppose those of the sectoral trade union. However, despite all difficulties both social partners argue that once concluded the sectoral agreement should be extended. Such position of employers' association is based on pragmatic considerations. Namely, the employers' association advocates compliance with the labour standards as a means of protecting its own members from the unfair competition practices. Besides collective bargaining, the social partners closely cooperate in efforts towards making Croatian

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the needs of the labour market, individuals and the society (<http://www.kvalifikacije.hr/hko-en>). It enables recognition of Croatian qualification standards with the EU framework.



education system more flexible and better adjusted to labour market needs. However, while the trade union considers this to be the opportunity for making metal industry workers more competitive and therefore better equipped for standard employment, the employers' association sees it as a chance for developing nonstandard flexible forms of employment.

**Box 2. Quality of working conditions dimension – METAL INDUSTRY SECTOR**

		Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
<b>The formal employment status dimension</b>	Open-ended contract	- most workers are in standard employment	- belated payment of salaries in some companies	- over-time work common - unequal distribution of working time frequent	- depends on branch of metal industry moderate to low in shipbuilding and ironworks, higher in some other branches	- in accordance with legal stipulations	- relatively high despite absence of the sectoral collective agreement - reduction of some material rights in collective agreements
	Fixed-term contract	- on the increase since outbreak of the crisis - in some collective agreements limited to 20-25% - semi-seasonal work	- pay rises connected to years of service (lower incomes) - belated payment of salaries in some companies	- over-time work common - unequal distribution of working time frequent	- low, the contract may not be renewed without any explanation	- in accordance with legal stipulations but fixed-term workers face difficulties claiming their rights	- low, fixed-term workers usually don't join the trade unions fearing that employer will not extend their contracts
	Occupational training without commencing employment	-used since 2010	-on the level of the minimum wage	-over-time work very common	-very low the arrangement expires after one year without any guarantees for the trainee	- obligation of the employees subsidized by the state	- very low: trainees are not members of the trade unions, collective agreements don't apply

	Temporary agency work	- rare but limited in collective agreements to 5-10%	- same as for other workers -lower wages and other material rights could be agreed in a separate collective agreement	- only full-time - other aspects of working time same as for other workers	- low, the law allows open-ended contracts but in practice they still don't exist	- in accordance with legal stipulations	- very low, workers are not members of the trade unions and they work on fixed-term contracts
	(Author) contract for work	- very rare form of employment in the metal industry sector - used for administrative work of retired employees					
	Student contract	- not relevant for the metal industry sector					
	Part-time contract	- still very marginal					
	(Bogus) self-employment	- some subcontracting mostly in shipbuilding industry falls into this category, but a more detailed research would be needed to corroborate this claim with certainty					
	Telework	- not relevant for the sector					
	Seasonal work	- workers employed on the regular fixed-term contracts and not as permanent seasonal workers (see Part I)					

## II. 4. Retail sector

### 4.1. General trends

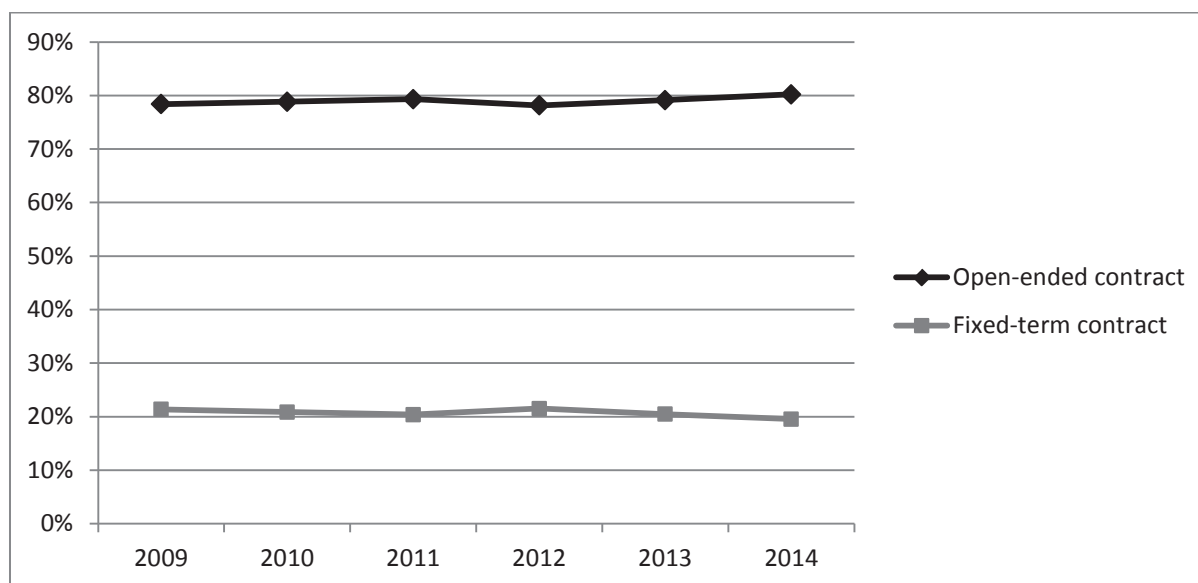
In 2013 the retail and wholesale sector in Croatia participated in the national GDP with 9.6% (CBS, 2015). In 2014, 15% of the entire number of workers was employed in the retail and wholesale sector (CCE, 2015b). This sector is the second largest employer in the country and the most dynamic generator of new working places (Interview with the CCE's Department for Retail Sector, 2015). In 2012 in Croatia there was one shop per each 211 citizens, which is below the EU average of 150. Similarly, the productivity observed as gross added value on each employee was some 46% below the EU average in the same year (ibidem). The economic crisis had negative effect on the sector due to reduced demand. Compared to 2008, in 2014 the turnover in the sector was reduced for 12.4%. The consumers have become more prudent; they buy less and put more emphasis on the prices. The sale of non-alimentary goods was hit particularly hard, which resulted in closure of some shopping centres (Interview with the CCE's Department for Retail Sector, 2015). Legal uncertainty represents an obstacle to more efficient business conduct. The good example here is the income tax which in the past 18 years was changed 18 times (ibidem).

**Table 6: The precarious forms of employment in the retail trade, except of motor vehicles and motorcycles** (number of persons in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
<b>Total number of employed persons</b>	98,963	92,024	89,203	88,876	85,164	84,420
<b>Type of employment</b>						
Open-ended contract	77,565	72,565	70,763	69,446	67,395	67,722
Share of open-ended contracts	78.38%	78.85%	79.33%	78.14%	79.14%	80.22%
Fixed-term contract	21,158	19,204	18,178	19,132	17,435	16,512
Share of fixed-term contracts	21.38%	20.87%	20.38%	21.53%	20.47%	19.56%
<b>Contractual working time</b>						
Full-time	97,893	90,574	87,527	86,924	82,646	81,471
Part-time	890	1,352	1,563	1,600	2,416	2,856

Source: Croatian Bureau of Statistics (compiled by the authors)

**Figure 3: Share of open-ended and fixed-term contracts in the retail trade in Croatia**



In the period of 2009-2014, the number of persons employed in the retail sector decreased - from the total of 98,963 in 2009 to 84,420 in 2014. Also, the retail sector recorded successive decline of both open-ended and fixed-term contracts in the observed period. The only exception was slight increase of the fixed-term contracts in 2012, when the number of such contracts rose from 18,178 to 19,132. However, already in the next year the number of fixed-term contracts dropped to 17,435 and in the 2014 it amounted to 16,512. In general, the full-time is the most frequent contractual working time in the retail sector, while relatively small number of employees work part-time. Nevertheless, the observed period was marked by a trend of the consecutive decline of full-time contracts (from 97,893 in 2009 to 81,471 in 2014) and consecutive increase of part-time contracts (from only 890 in 2009 to 2,856 in 2014).

#### **4.2. Qualitative analysis**

##### *Types of precarious employment in the retail sector*

The fixed-term contracts represent the most common type of precarious work and since beginning of the crisis 90% of all new employment contracts are concluded on a fixed-term period (Interview with the CTUC, 2015). Short duration of fixed-term contracts makes such work particularly precarious. The contracts for work which last only one month are wide spread in the retail sector, and they are usually justified with the simple expression “increase in the amount of work”. This according to the trade unions represents a legislative problem because Labour Act is not precise enough, allowing broad interpretation of the reasons for concluding the fixed-term contracts (ibidem). Labour Inspectorate has the right to initiate a process of determining whether the use of fixed-term contract is justified. However, in practice this is rarely implemented because current legislation makes it very difficult for inspectors to prove unjustified use of a fixed-term contract (ibidem).

Part-time work in the retail sector increased since 2009. After the crisis there is a common practice of reducing the workers' working time from 40 to 30 hours a week among employers. In most cases such reductions are ignoring the complex legal procedure that envisages the expression of the valid reason for reduction of working time and notification of the workers' council (ibidem). According to the CTUC,<sup>43</sup> reductions from full-time to part-time are often implemented in order to bypass the legally prescribed workers' right on paid brake. Such breaches are possible because number of inspectors is too small (ibidem).

According to the Croatian Employers' Association (CEA) legislative provisions which regulate registration of overtime work are relatively satisfactory, although in some situations there is evidence which points towards over-regulation (Interview with the CEA's Department for Retail Sector, 2015). The CTUC strongly disagrees with such position, indicating that overtime work in the retail sector is frequently not registered and paid, without any sanctions for the perpetrators. This represents a serious problem not just for the nonstandard but also for the workers on open-ended contracts. There is a common practice that workers come earlier to their working places and leave later, without having these extra hours registered, which frequently sum up to 10 unpaid hours per week (Interview with the CTUC, 2015). According to CTUC this situation is directly related to the crisis. Namely, because of the crisis some workers lost their jobs and the remaining ones often had no choice but to replace these loses by working unpaid overtime (ibidem).

Work on Sunday and during public holidays is equally affected by the problem of unpaid overtime work. The Labour Act (OG 93/14) and the Act on Public Holidays (OG 130/11) prescribe that workers who work on Sunday and during public holidays are supposed to receive compensatory free days. However, in the retail sector these provisions are frequently infringed. This is the case because mentioned acts don't prescribe any sanctions for employers that breach them (ibidem). Because of this, in 2003 and 2008, with help of the Catholic Church, the CTUC and the other trade unions successfully lobbied the Government to legally ban the work on Sunday in the retail sector. Still, on both occasions the Constitutional Court subverted newly enacted legislation, by stating that it undermines free market competition (Bagić, 2010). Based on the mentioned reasoning of the Constitutional Court in 2009, the Government decided to cancel provisions of the Act on Retail Stores (OG 68/13), which used to regulate their working time. Therefore, working time of the retail stores is currently regulated only by provisions of the Labour Act (Knežević, 2013). The Fiscal System Act (OG 133/12) made it very easy to detect if shops are working longer than they are supposed to, because issuing of each receipt gets instantly registered in the Tax Department. Despite this, sanctions for employers which work longer than allowed are still rare (Interview with the CTUC, 2015).

Seasonal work in the coastal areas of Croatia is wide spread, since in these regions employers need additional workers only during the tourist season. The student work is also spread in the big retail centres, but students usually work on assignments which don't carry financial responsibility. Students sometimes work on projects funded by the third parties. In such cases

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<sup>43</sup> The CTUC is a sectoral trade union operating within the Union of Independent Trade Unions of Croatia which is one of four representative trade union confederations in the country. The CTUC has around 13,000 members in 112 companies where on the average its representativeness is 37.9%. On the average 48% of the CTUC members are covered with collective agreements. 80% of CTUC members are standard workers on open-ended contracts. The CTUC employs just eight workers, which considering the size of the sector makes it understaffed (Interview with the CTUC, 2015).

their employers are not the retail companies where they work but third parties which finance implementation of the mentioned projects. This situation makes it particularly difficult for the trade unions to protect rights of such workers (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Temporary agency work is very limited in the retail sector and it usually concerns non-retail activities such as cleaning or security services (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Work in the informal economy was reduced after enactment of 2014 changes to Act on Pension Insurance (OG 151/14, 33/15). They obliged employers to register all new workers at the Croatian Pension Insurance Institute within 24 hours from the start of their employment. However, despite improvements work in the informal economy still exists, particularly within activities where workers have no direct contact with the customers, such as delivery services or work in the storehouses (Interview with the CTUC, 2015). There is no evidence of bogus self-employment in the retail sector, despite fact that self-employment exists (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015).

As specific problem, CTUC underlines the pressure which some employers put on older workers (both standard and nonstandard) aimed at making them agree on early retirement.<sup>44</sup> This represents a social problem, because pensions of workers who retire early are so small that it is very difficult to survive living just from this income. For employers early retirement brings costs reductions because salaries of young workers are smaller. Furthermore, some employers replace their early retired workers with the young trainees whose salaries are paid by the state (see Part 1).

#### *Initiatives of the social partners related to precarious work in the retail sector*

The CTUC has company level collective agreements with 12 retail centres. In these companies precarious work is marginal. Additionally, CTUC succeeded to arrange with these employers that workers who work on fixed-term contracts will be a priority, in case of hiring new workers on open-ended contracts (Interview with the CTUC, 2015). The collective agreements concluded by the CTUC treat all workers equally. Apart from the mentioned arrangement they don't have specific provisions which relate to nonstandard or precarious workers (ibidem).

The sectoral level collective agreement in the retail sector was cancelled in July 2013 on the initiative of the employers. This reduced the coverage with collective agreements which was only 8.5% in 2014.<sup>45</sup> The CTUC was against the cancellation of collective agreement claiming that it wasn't based on objective reasons (ibidem). Negotiations on the new sectoral collective agreement started in September 2013 and they are still ongoing. The starting point was the negotiation protocol between social partners that, as claimed by both sides, is being respected (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Difficult sector specific issues such as work on Sunday and overtime work, are likely to be specifically addressed in the agreement, which is expected to be finalized in early 2016 (Interview with the CEA's Department for Retail Sector, 2015). The material rights of

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<sup>44</sup> According to Eurostat Croatia has one of the shortest average duration of working life in the EU. In 2014 it was only 31.1 years. Many workers use the legislative possibility of early retirement, which however is often not the consequence of a free choice (Vehovec, 2015, 83).

<sup>45</sup> Presentation of preliminary research results by Prof. Dragan Bagić at the conference "Collective bargaining in Croatia and Europe today" Zagreb 14 October 2015.

workers which are currently being negotiated prove as most controversial element of the new agreement. The CTUC insists on material rights from the previous agreement. On the other hand, the CEA argues that crisis created new conditions on the labour market which need to be recognized. It therefore insists on reduction of some material rights (primarily bonuses) and on inclusion of additional innovative benefits for the workers such as education programmes, medical examinations, voluntary pension insurance programmes etc. (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Both social partners agree that extension of the sectoral collective agreement represents a good instrument for reducing labour market segmentation.<sup>46</sup>

The bipartite social dialogue could profit from establishment of the Sectoral Council in the Retail Sector. Setting up of such Council could contribute to greater frequency of meetings between social partners and deeper understanding of positions advocated by the other side.

In order to encourage precarious workers to join the trade union, CTUC invested a lot of effort into promoting the institute of a secret trade union membership. Secret members are members of the trade union whose membership status is not known to their employers. As such these members can benefit from advantages of membership such as legal advice or legal representation, without fearing that they will be wrongfully fired or that their employment contract will not be renewed, simply because they are members of the trade union. Fluctuation of secret members is significant but at the moment the CTUC has around 500 such member (Interview with the CTUC, 2015).

Since 2005 CTUC implements the campaign "*Stop the work in informal economy*" in some of 20 Croatian towns. This activity is being implemented in cooperation with the Union of Independent Trade Unions of Croatia (UITUC), CEA and the local administration. Within this campaign public forums are organized as well as other initiatives such as free phones for reporting work in the informal economy (ibidem). The CTUC has developed a practice of going to various retail chains where its activists hand out fliers to all workers (standard and nonstandard) explaining the importance and benefits of the trade union membership (ibidem).

The insufficiency of education programs in the retail sector is widely acknowledged. Therefore, many retail chains have developed their own academies, where they train and further educate their workforce (ibidem). The social partners acknowledge this problem and cooperate on the reform of vocational training through the Croatian Qualifications Framework. Their goal is redefinition of education programs in order to make them more compatible with needs of the labour market (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015).

### ***4.3. Conclusions***

Due to crisis the number of people employed in the retail sector was reduced, while different forms of the nonstandard or precarious work (particularly part-time work) have increased. The sectoral trade union adopted the strategy towards nonstandard or precarious workers, which combines the elements of inclusion with that of a separation. This means that in

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<sup>46</sup> Not all experts agree with this view. Some note that collective agreements actually increase the segmentation on the labour market, due to fact that the trade unions protect interest of their members who are overwhelmingly standard workers (Interview with the Ministry of Labour, 2015).

addition to treating all workers the same, sometimes the nonstandard workers are treated as a particular group. The ultimate goal this mixed strategy is reducing the proportion of nonstandard workers within sector as a whole. The material rights agreed in the company level collective agreements associated with the sectoral trade union apply to all workers equally. However, in these agreements the sectoral trade union managed to oblige the employers on giving priority to their fixed-term workers when considering new hiring on open-ended contracts. The elements of a separation strategy are also visible in a domain of political lobbying where the union invests efforts into trying to legally prevent work on Sunday and during public holidays. Such work particularly affects nonstandard workers who are not in a position to fight against abuses related with this kind of work. With respect to consultation activities the sectoral trade union has a lot of experiences with the secret trade union membership, which allows nonstandard workers to use benefits of the trade union membership without additionally compromising their job security. The employers' association opposes standpoints of the sectoral trade union regarding work on Sunday and during public holidays, overtime work, material rights of workers, as well as the union's general reservations towards nonstandard forms of work. Such position of the employers' association is based on economic considerations, because they fear that increased rigidity on the mentioned issues could lead many employers out of business. Additionally, strong positions of employers' association in favour of the nonstandard work are also based on organizational considerations. Namely, retail is a predominantly a low-skills sector where workers can easily be replaced, which makes it particularly suitable for nonstandard forms of work. Polarized positions of social partners on the issue of nonstandard work may at least partially be reconciled with signing of the sectoral collective agreement, which is currently being negotiated. This cautious optimism is based on the fact that negotiations are in an advanced stage, while both partners advocate extension of the agreement. Furthermore, signing of the sectoral collective agreement may improve social legitimacy of the retail sector companies and their approval among the customers.

**Box 3.: Quality of working conditions dimension – RETAIL SECTOR**

the formal employment status dimension		Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
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	Open-ended contract	- growing trend of involuntary replacing full-time with part-time -older workers often under pressure to retire early	-frequent non-payment of overtime work	-over-time work common	-legally high but compared to other sectors low because workers can easily be replaced	-high: stipulated by legal acts	-high in companies where there is a trade union and collective agreement -sectoral collective agreement currently non-existent
	Fixed-term contract	-most common form of employment after break-out of economic crisis	-frequent non-payment of overtime work	-over-time work very common	-low particularly because many contracts get concluded for a very short time period	- in accordance with legal provisions but below the level for standard workers (no rights to severance pay, difficulties in claiming belated payments and unemployment benefits)	-low: workers are usually not members of the trade unions
	Student contract	-frequent form of additional employment in foreign shopping centres	-lower than wages of other workers (form of work outside of employment relationship)	-over-time work very common	- very low (form of work outside of employment relationship)	- very low: no social security or pension entitlements	- very low: workers are not members of the trade unions, collective agreements don't apply to these workers

Part-time contract	-sharply increased since outbreak of the crisis - often concluded not as a wilful choice of workers	-sector is a low income activity, wages of part-time workers extremely low	-over-time work very common	-for the workers on open-ended contracts relatively high -for the workers on fixed-term contracts low	- in accordance with legal provisions but below the level of full-time workers (very small pensions)	-high for workers on open-ended contracts in companies where there are the trade unions -low for workers on fixed-term contracts
Occupational training without commencing employment	-used since 2010	-on the level of the minimum wage	-over-time work very common	-very low the arrangement expires after one year without any guarantees for the trainee	- obligations of employees subsidized by the state	- very low: trainees are not members of the trade unions, collective agreements don't apply
Temporary agency work	-used only in supplementary services such as cleaning and maintenance services but not for primary commercial activities which carry out fiscal responsibility					
(Bogus) self-employment	-not relevant for the sector					
(Author) contract for work	-marginally used in the retail sector					
Telework	-not relevant for the sector					
Seasonal work	-common in the coastal area during the tourist season -for the most part workers are employed on the regular fixed-term contracts and not as permanent seasonal workers (see Part I)					

## II. 5. The public healthcare

### 5.1. General trends

The social protection schemes in Croatia are based on contributions paid by the employers but healthcare protection is in fact universal because there is coverage also for the unemployed. The only condition for a person to preserve its healthcare coverage after becoming unemployed is timely initiation of some administrative procedures (Matković, 2013, 93). In 2012 Croatia spent 7% of its GDP on the public healthcare system, which is below the percentage spent in most EU member states (Eurostat, 2012). However, for the last 20 years public healthcare has a problem of debt accumulation which hasn't been resolved despite numerous financial recovery programs.

A comprehensive public healthcare sector reform was initiated in late 2014, and it will be implemented in next 3-5 years. The reform started in January 2015 with detachment of the Croatian Health Insurance Found from the State Treasury. The reason behind this action was rationalization of costs of health protection, better protection for the patients and harmonization with the best practice in other EU member states (Croatian Health Insurance Found). In the legislative sense the reform implies changes to the Health Protection Act (OG 154/14) and the Act on Compulsory Health Insurance (OG 80/13, 137/13). Among others, the reform is expected to provide: payment of the hospital debts, making hospitals financially sustainable by 2017, a new system of remuneration for the healthcare workers, more specialist care in the local health centres, better regulation of supplementary work of doctors, allowing the Croatian Health Insurance Found to establish separate companies for the management of secondary activities as well as more opportunities for development of health tourism (Poslovni.hr, 2015). First results of the healthcare reform are encouraging because hospitals substantially decreased their losses, from HRK 742 billion in the first half of 2014 to HRK 153 billion in the first half of 2015 (Crnjak, 2015). Despite this, the trade unions are sceptical, fearing that reform leads towards privatization of the public healthcare (Interview with the ATUHSPC, 2015).

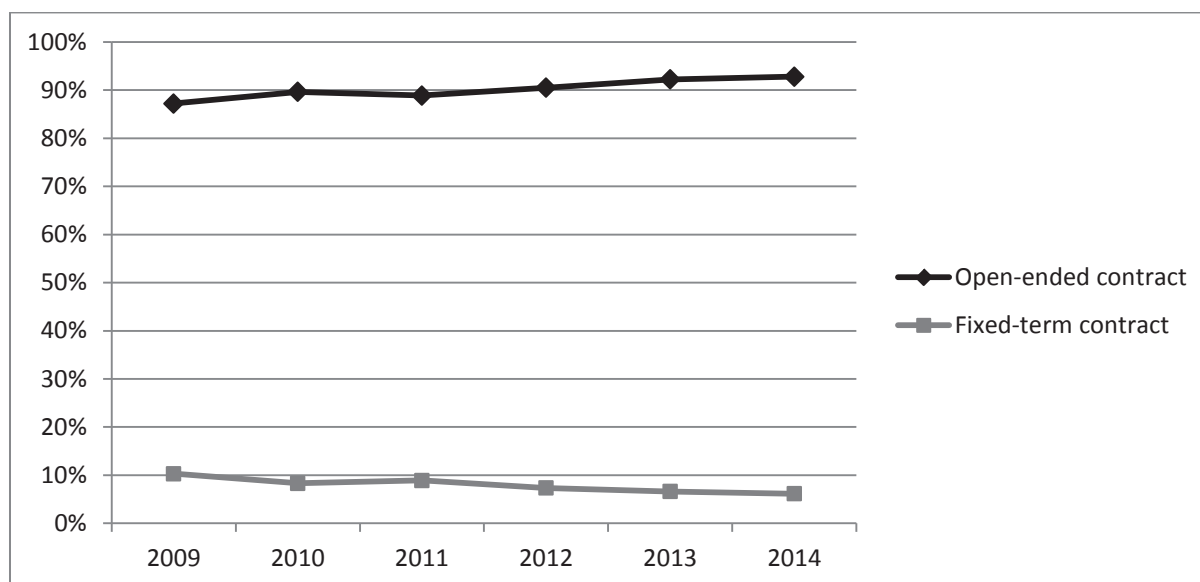
Being part of the public sector, the healthcare has much lower share of employees earning below 60% of the mean wage, than the sectors predominantly in private ownership (Franičević and Matković, 2013, 83). Despite this, opening of the EU labour markets after accession resulted in employment of some 700 Croatian doctors and nurses in the EU countries. If this trend continues it might cause new problems, due to general shortage of the medical professionals (Poslovni.hr/Hina, 2015).

**Table 7: The precarious forms of employment in the human health activities in Croatia** (number of persons in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
<b>Total number of employed persons</b>	65,684	65,380	66,097	67,155	66,557	65,907
<b>Type of employment</b>						
Open-ended contract	57,264	58,591	58,733	60,758	61,368	61,149
Share of open-ended contracts	87.18%	89.62%	88.86%	90.47%	92.20%	92.78%
Fixed-term contract	6,781	5,433	5,894	4,942	4,406	4,064
Share of fixed-term contracts	10.32%	8.31%	8.92%	7.36%	6.62%	6.17%
<b>Contractual working time</b>						
Full-time	64,976	64,754	65,431	66,061	65,841	65,158
Part-time	447	389	484	856	623	569

Source: Croatian Bureau of Statistics (compiled by the authors)

**Figure 4: Share of open-ended and fixed-term contracts in the human health activities in Croatia**



In the first years since beginning of the crisis, the number of employees in the healthcare sector recorded modest, but successive increase (from 65,684 in 2009 to 67,155 in 2012). However, in the post 2012 period a moderate decreasing trend was recorded, resulting in 65,907 employees in 2014. In the observed period the healthcare sector continuously recorded moderate increase of the open-ended contracts, while numbers of the fixed-term contracts were decreasing. From 2009 the number of open-ended contracts continuously

increased, reaching a peak in 2013 with 61,368 employees on such contracts. On the other hand, the number of fixed-term contracts declined from 6,781 in 2009 to 4,064 in 2014. Since 2009 the vast majority of employees in the healthcare sector worked full-time. In 2014 the number of employees working full-time was 65,158 while there were only 569 workers on part-time contracts.

## *5.2. Qualitative analysis*

### *Types of precarious employment in the healthcare sector*

Fixed-term contracts represent the most common form of the nonstandard or precarious work in the healthcare sector. The prevalence of fixed-term contracts in the sector is not as much related to the crisis, since even before the crisis similar number of workers worked on such contracts (Interview with the ATUHSPC, 2015). Before the crisis many nonstandard or precarious workers in the public sector (the healthcare included) managed to find their way to standard employment. However, after the crisis the return to unemployment became a more likely outcome for the public sector fixed-term employees (and trainees) than progress to standard employment (Franičević and Matković, 2013, 82).

The Autonomous Trade Union in Health Service and Social Protection Service of Croatia (ATUHSPC)<sup>47</sup> considers problematic that significant number of healthcare workers work on such contracts. They stress that hiring of workers on fixed-term contracts is not logical, since the sector is funded from the public sources and it experiences a chronic shortage of workers. For the ATUHSPC in most cases there are no legitimate justifications for hiring workers on fixed-term contracts. Nonetheless, this is done in order to make savings in the system, because workers on fixed-term contracts are unlikely to request all of their material and other rights, fearing that their contracts might not be renewed (Interview with the ATUHSPC, 2015).

While there is almost no incidence of doctors working on fixed-term contracts, nurses as a principle rule start their careers working on such contracts. This practice for the ATUHSPC is not well grounded because although the shortage of doctors is great (some 3,000) the shortage of nurses is even greater - around 12,000 (ibidem). According to the interview conducted with the ATUHSPC there are cases where nurses and other professionals worked for ten years or even longer on fixed-term contracts. In such cases employers bypass provisions of the Labour Act (OG 93/14) limiting duration of a fixed-term contract to no more than three years. Namely, such workers get transferred to another department upon expiry of a three-year period, thereby losing their right to an open-ended contract. The Labour Act used to prevent employers from hiring new workers on a position of a fixed-term worker whose contract was not renewed for a period of six months. This provision gave some sense of security to fixed-term workers in all sectors the healthcare included, but in 2009 it was erased from the Labour Act (ibidem).

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<sup>47</sup> The Autonomous Trade Union in Health Service and Social Protection Service of Croatia (ATUHSPC) is the sectoral trade union which is currently not part of any trade union confederation. It has around 19,000 members and 170 branches throughout Croatia, but only two employees and the president which is elected on a four-year's mandate. 10% of the ATUHSPC members are nonstandard or precarious workers (Interview with the ATUHSPC, 2015).

Part-time work exists in the sector but only marginally. It mostly concerns the doctors who have retired but, due to the general shortage of doctors, still have the right to work up to four hours per day (ibidem). Similarly, retired doctors sometimes work on the authors contracts for work. Temporary agency work is also sporadically represented. It concerns the non-health workers such as those working for the cleaning service. Since mid-2014 the public sector cleaning service workers which retire as a rule get replaced with the agency workers. For the ATUHSPC this represents a problem, because workers who clean the hospitals need to be properly trained. Forms of work such as self-employment or the seasonal work cannot be detected in the public healthcare system (Interview with the ATUHSPC, 2015).

The overtime work represents the issue of particular importance in the healthcare sector, because of the nonstandard distribution of working time, which includes weekends and the public holidays. Furthermore, the problem of the overtime work is generated by shortages of the medical professionals which oblige employees to work overtime.<sup>48</sup> For the purpose of harmonization with the EU *acquis* Croatia needed to make changes to its institute of duty for the medical doctors which doesn't exist in the EU. The duty time is time after the regular working hours when doctors stay in hospitals in order to be available if needed. The duty time used to be calculated separately from the working time. However, in the most recent period duty time gets calculated same as the regular working time. In practice this means that the duty time is treated as regular overtime and that it is paid 50% more than the working time. Such treatment of the duty time is problematic for the ATUHSPC, because it creates a significant imbalance between income levels of doctors and that of other medical professionals. Furthermore, the ATUHSPC argues that duty time is not the same as working time and that it therefore cannot be treated as such (Interview with the ATUHSPC, 2015). It should be stressed that the Ministry of Health acknowledges this problem and intends to address it through better organisation of work and a new remuneration system (Poslovni.hr/Hina, 2015).

Another practice opposed by the ATUHSPC is the so called 12 hours shifts. This applies to nurses and other professionals, except the doctors, who instead of working 8 hours a day prefer working 12 hours a day for full two weeks. In this way they accomplish all of their monthly working hours in two weeks and are free to stay at home for the two weeks that follow. The ATUHSPC has no jurisdiction over organization of working time but it warns that such practice is harmful to the health of workers and adverse for the patients, who need the best possible care (Interview with the ATUHSPC, 2015).

### *Initiatives of the social partners related to precarious work in the healthcare sector*

The ATUHSPC is signatory of the Basic Collective Agreement for the Public Services (BCA) which regulates wage basis, bonuses, duration of the annual leave and other rights for all workers in the public sector. The current BCA was signed in December 2012 for a period of four years. After signing of BCA the government has 60 days to start negotiations on the specific sectoral collective agreement for the various parts of the public sector. Following this timetable, the sectoral collective agreement for the healthcare was signed in December 2013 for a four years period. Signatories of this agreement for the trade unions are the ATUHSPC

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<sup>48</sup> Anica Prašnjak the president of Croatian Trade Union of Nurses and Medical Technicians underlined this at the round table "Health Policy in the Next Four Years" held on the 28th October 2015 in Zagreb.

and Croatian Trade Union of Nurses and Medical Technicians (CTUNMT). The Ministry of Health signed the agreement on behalf of the employers. The sectoral agreement contains provisions concerning peaceful resolution of arguments, strike, interpretation of the agreement, renewal of the agreement, rights and duties related to employment, salaries, other material rights, safety at work and rights of the trade unions. It treats all workers equally and has no specific provisions which concern nonstandard or precarious workers (OG 43/13, 96/15).

The ATUHSPC as the trade union of all workers in the healthcare sector often finds itself in confrontation with Croatian Doctor's Trade Union (CDT) and with Croatian Trade Union of Nurses and Medical Technicians (CTUNMT), which represent interest only of these professions (Interview with the ATUHSPC, 2015). In the pre-2012 period on two separate occasions the Ministry of Health concluded sectoral collective agreements with the CDT and the CTUNMT only, excluding the ATUHSPC. On both occasions, ATUHSPC successfully sued the state to the Constitutional Court for concluding illegitimate collective agreements. After adoption of the Act on Representativeness (OG 93/14, 26/15), which prescribed participation criteria for the trade unions and employers in collective bargaining, the sectoral collective agreements in the healthcare sector can no longer be concluded without the ATUHSPC (*ibidem*).

In mid-2014 the ATUHSPC was one of the most active trade unions in a campaign against Croatian government's proposal to implement outsourcing of non-core services in the public sector. As a response to the government's proposal the trade unions successfully organized a campaign of collecting citizen's signatures calling for a referendum that would ban outsourcing in the public sector. By collecting the needed number of signatures the trade unions managed to constrain the government to abandon this proposal, although the referendum itself never took place. During the signature collecting campaign ATUHSPC representatives frequently appeared in the media stating their opposition towards outsourcing in the public sector. They argued that outsourcing represents a threat to the existing high standards in the hospital non-core services such as cleaning and cooking (Kovačević Barišić, 2014). In the public healthcare system there are some 14,000 non-health workers at the risk of outsourcing (Franičević and Matković, 2013, 75).

According to the ATUHSPC one of the best ways for improving position of the nonstandard or precarious workers is through training and good communication with the trade union representatives. These representatives are well informed about all employment activities in their institutions and they frequently report them to the ATUHSPC headquarters (Interview with the ATUHSPC, 2015).

### ***5.3. Conclusions***

Being part of the public sector the healthcare didn't experience wave of dismissals which swept numerous other sectors primarily in private ownership. In the last five years the number of workers on fixed-term contracts decreased while standard employment increased, but it is too early to be calling this a lasting trend. However, there is still a significant group of workers who work on the fixed-term contracts, which according to the sectoral trade union for the most part cannot be justified. The sectoral trade union adopted the strategy of inclusion towards nonstandard or precarious workers. According to this strategy the sectoral

trade union serves as a broad interest representation organization which makes no differentiation between the standard and nonstandard workers. The purpose of such strategy is reduction of nonstandard work in the public healthcare to a level which could be objectively justified. Being part of the public sector all workers in the healthcare sector are covered by both the basic and the sectoral collective agreement. Both agreements treat all workers equally making no differentiation between standard and nonstandard workers. In the area of collective bargaining the pursued trade union strategy of inclusion towards nonstandard workers is generally followed by the employers, which is visible from statistical data and could be explained by severe shortages of qualified workers. However, the pursued trade union strategy of inclusion also comes to surface in other areas such as political lobbying and mobilization, where there is less agreement between social partners. Namely, the sectoral trade union was one of the most active unions in 2014 campaign which by means of calling for a people's initiative blocked the government's proposal to introduce outsourcing of non-core services in the public sector. If implemented, this proposal could have increased the number of nonstandard workers in the healthcare sector from the current below 10% to more than 20%. Still, the government introduced a policy of replacing all retired non-core public sector workers with the outsourced workers. In the future this will slowly influence the prevalence of nonstandard work in this sector. The overtime work represents the issue of heated debate and confrontation between the professional trade unions of doctors and nurses on one side and the sectoral trade union on the other. For the sectoral trade union current calculation of the doctor's duty time needs to be changed since it introduces great misbalance between income levels of doctors and those of other categories of workers.

**Box 4.: Quality of working conditions dimension – HEALTHCARE SECTOR**

The formal employment status dimension		Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
	Open-ended contract	-most common employment form in the healthcare sector, especially for the doctors	-regulated by collective agreements -lower share of employees with low pay compared to private sector	-high levels of over-time work - calculation of the overtime work represents a dispute among the trade unions and between	-high due to the staff shortages	-in accordance with legislative stipulations and collective bargaining regulations	-high: workers covered by the basic collective agreement for all public services and the sectoral collective agreement



				the trade unions and the employers			
Fixed-term contract	-frequent form of employment for the workers other than doctors at the beginning of their careers	-the same as in case of open-ended contracts	-high level of over-time work - calculation of the overtime work disputed	-low: the provision banning employment for six months to a working place of a fixed-term worker whose contract was not renewed was abolished	- in accordance with legal stipulation but below the level for standard workers (no rights to severance pay lower chances of receiving the unemployment benefits)	-moderate: workers are willing to be a part of the trade union but they hesitate fearing that their contracts may not be prolonged	
(Author) contract for work	-marginally used in the healthcare sector						
Student contract	- not relevant for the sector						
Part-time contract	-refers mostly to doctors who upon retirement may work up for four hours a day in the hospital given the high shortages of doctors						
Temporary agency work	-relevant only for the staff in the hospital cleaning service						
(Bogus) self-employment	-not relevant in healthcare sector						
Occupational training without commencing employment	-used since 2010	-on the level of the minimum wage	-over-time work very common	-very low: the arrangement expires after one year without any guarantees for the trainee	- obligations of the employees subsidized by the state	-very low: trainees are not members of the trade unions, collective agreements don't apply	
Telework	- not relevant for the sector						
Seasonal work	- not relevant for the sector						

### Part III: Comparative evaluation and conclusions

Before 2003 Croatia wasn't introducing significant labour market changes aimed at achieving greater flexibility, despite low market participation rate and high unemployment. In 2003 the institute of temporary agency work was introduced and conditions for the use of fixed-term contracts were relaxed. The subsequent changes to the Labour Act were mostly motivated with harmonization with the EU *acquis*, which is why they were limited in scope. Therefore, the rigidity of Croatia's labour market was frequently criticized by the European Commission and international financial institutions. The conditions on Croatian labour market worsened due to the crisis and in 2013/14 the government had to introduce additional flexibility related changes to the Labour Act. These changes were heavily criticized by the trade unions and supported by the employers. However, eventually some initial proposals were watered down (particularly those on unequal working hours) which is why the employers viewed them as insufficient.

The four sectors (construction, metal industry, retail trade and public healthcare) analysed in this study show that before the crisis in Croatia regular open-ended contracts prevailed, while the nonstandard or precarious work found itself on a periphery, where it was mostly reserved for the workers at the beginning of their careers. However, due to the crisis the use of the nonstandard work increased and differences between public and private sector became more pronounced. Fixed-term work represents the most widespread form of the nonstandard or precarious work in Croatia, which overshadows all other forms. In fact, statistics shows that in the last ten years fixed-term employment became the dominant form of new employment. Since outbreak of the crisis in construction and in metal industry the number of fixed-term contracts compared to open-ended ones is increasing, while in the retail sector it is stagnating. Out of all sectors in focus of this study only the public healthcare registers decrease in use of the fixed-term contracts. This could be explained with comparatively mild impacts of the crisis on the public sector.

Temporary agency work in Croatia is mostly used in food industry and in telecommunications but on the average it is less frequent than in most other EU member states. This type of work is also concentrated on the low-skills jobs, while the proportion of high-skills jobs is marginal. The contracts of agency workers are almost exclusively fixed-term which makes them highly precarious. The reason for the low spread of agency work could be the relative scarcity of foreign investments in production facilities, which usually generates this kind of employment. It should however be noted that since outbreak of the crisis the agency work finds itself on an increasing pattern, like most other forms of nonstandard work. In our four sectors the agency work could marginally be found in the metal industry, retail and in healthcare, mostly in non-core services such as cleaning and security.

Part-time work is still marginally used, but this could change in the near future. Namely, legislative changes introduced in 2014 made part-time employment more attractive and employers no longer have to fear loses because they employ someone in this way. In the observed sectors part-time work has been on the increase in construction and in retail. In both sectors crisis increased the number of involuntary part-time workers, while the trade unions reported numerous employers' misuses of this form of work. Bogus self-employment is difficult to identify on Croatian labour market, which could partly be explained with the

popularity and ease of using the fixed-term contracts. Within four observed sectors the bogus self-employment could be found in construction and in metal industry, but not in two other sectors where subcontracting is rare. Student work represents work outside of employment relationship which makes it highly precarious. It is relevant for the retail sector where since outbreak of the crisis it is increasingly frequent. Since 2010 all observed sectors, except construction, participate in the measure of occupational training without commencing employment and use the work of occupational trainees. Salaries of these trainees are currently on the level of the minimal wage and most Labour Act provisions apply to such workers. However, the trainees are not members of the trade unions and they don't have the protection of collective agreements. The overtime work represents the issue of heated debate between social partners. For the trade unions misuse of the overtime work represents one of the principle sources of precariousness which affects all workers, standard and nonstandard. Therefore, unions advocate more rigidity in registration of the overtime work which employers reject.

The sectoral trade unions in construction and in public healthcare chose the strategy of inclusion towards nonstandard or precarious workers. Namely, while intending to reduce the number of nonstandard workers they pursue the pattern of non-differentiation between these two groups of workers. This includes activities in the area of collective bargaining, political lobbying, mobilization of workers etc. The reactions of employers to the pursued trade union strategies were generally complying but differed in some aspects, due to diverse conditions in these two sectors. The construction sector, which due to the crisis lost more than 40% of its workforce, struggles with the dumping prices and unfair competition coming from an increasingly large informal economy. Therefore, it is unsurprising that on numerous issues with indirect implications for the nonstandard work, such as public procurement or extension of the sectoral collective agreement, there is a lot of cooperation and agreement between social partners. The standpoints of the social partners are strictly opposing only in domain of material rights of workers and regulation of overtime work. In the healthcare system, which is part of the public sector, the loss of jobs was marginal while all workers benefit from the coverage with both basic and the sectoral collective agreements. Cooperation between social partners (the sectoral trade union and the state) is therefore less urgent. Nonetheless, with respect to the nonstandard work positions of the social partners are somewhat polarized. The sectoral trade union opposes the current practices related to organization of working time. Additionally, in 2014 the sectoral trade union (in cooperation with other trade unions) managed to block the government's proposal to introduce outsourcing of non-core services in the public sector. Such reform could have substantially increased the proportion of nonstandard or precarious workers in the public healthcare, if implemented.

In the metal industry and in retail sector crisis caused the loss of jobs and reduction of some material rights of workers. These losses were less severe than those in construction sector, but nonetheless significant. The strategy towards the nonstandard workers chosen by the sectoral trade unions combines the elements of inclusion with those of separation (treating such workers as a particular group). Same as with the pure strategy of inclusion, the aim of this mixed strategy is reduction in number of the nonstandard workers compared to workers on open-ended contracts. The sectoral trade union for the metal industry inscribed limitations on the numbers of nonstandard workers in its company level collective agreements. Similarly, the sectoral trade union in the retail sector in its company-level collective agreements managed to negotiate a priority status for the fixed-term workers in case of new employment

on open-ended contracts. The retail sector trade union also lobbied the government to ban the work on Sunday and during public holidays, which has particularly negative implications on working conditions of the nonstandard workers. Additionally, the sectoral trade union in retail has a volatile but significant number of secret trade union members, which are usually the nonstandard workers.

In the metal industry the pursued trade union strategy towards nonstandard workers was met with a degree of hesitation from the side of employers' association. This is visible from the slow pace in negotiation of the sectoral collective agreement. In all likelihood the sectoral collective agreement will not encompass limitations on the numbers of nonstandard workers or any similar provision which applies only to these groups of workers. The positions of employers' association in the retail sector over the pursued trade union strategy towards nonstandard workers are equally non-complying. The sectoral collective agreement in the retail sector is in advanced stages of negotiations. However, the employers' association disagrees with positions taken by the trade union concerning the need for nonstandard work, work on Sunday and the overtime work.

The trade unions and employers in four examined sectors of Croatian economy have taken different approaches to nonstandard workers. However, in all mentioned sectors the social partners are just beginning the process of formulating more complex and innovative strategies towards such workers. Since accession to the EU, the trade unions and employers learn a great deal in that respect from their European colleagues. Still, the scarce human capacities combined with extensive focus on collective bargaining, at this moment hamper them from pursuing more innovative strategic approaches towards this increasing phenomenon.

**Box 5.: Comparative overview of precarious work and social partner responses in five sectors in Croatia**

Sector	Main development since 2008			Strategies: precarious work		
	LM segmentation; trends/ why?	Forms	Dimensions	Unions	Employers	Others/specific
<b>Construction</b>	-widespread	-fixed-term, self-employment, part-time marginally, informal economy	-job security, unpaid overtime	-inclusion	-inclusion due to problems with informal economy	-both social partners support extension of the sectoral collective agreement
<b>Metal industry</b>	-widespread, particularly since privatization of shipyards	-fixed-term, self-employment, part-time and TAW marginally	-job security (particularly in shipyards), unequal distribution of working time	-inclusion + separation	combination of approaches aimed at preserving the status quo and further expansion of nonstandard employment	-negotiations on the sectoral collective agreement underway but progressing slowly -social partners press for the reform of vocational training
<b>Retail</b>	-widespread	-fixed-term, part-time,	-job security, low wages	-inclusion +	combination of	-negotiations on the sectoral

		student work (work outside of employment relationship)	(particularly for part-time workers), unpaid overtime	separation	approaches aimed at preserving the status quo and further expansion of nonstandard employment	collective agreement underway -polarization over the work on Sunday
<b>Public healthcare</b>	-moderate, due to shortages the LM segmentation is decreasing	-fixed-term, part-time marginally	-job security, atypical working time, unpaid overtime	-inclusion	-gradual inclusion due to shortages of workers	-polarization over distribution of working time, duty time for doctors and the outsourcing
<b>TAW</b>	-yes (part of segmentation)	-fixed-term employment almost entirely	-job security, since 2014 limited material rights assigned by collective agreements, lower wages and social protection standards could also be agreed	-inclusion in some companies	combination of approaches aimed at further expansion	-NA
<b>National level</b>	-moderate (in the public sector less segmentation) -the new Labour Act (2014) contributed to further segmentation since increased flexibility mainly applies to nonstandard workers	-fixed-term, part-time, TAW, self-employment, work outside of employment relationship (student work, contract for work), occupational training	-job security most pressing issue (more than 90% of new employment is fixed-term)	-inclusion	combination of approaches aimed at further expansion of nonstandard employment	-2014 new Labour Act introduced further flexibility in the LM  -since 2008 the minimum wage is set by the law, 38.8% of average earning in 2014

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