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

COUNTRY REPORT: SLOVAKIA

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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: Slovakia

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Central European Labour Studies Institute (CELSI)

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Introduction

The transition years of the 1990s and rapid economic growth in the 2000s brought technological innovation and a close integration of the Slovak economy to global markets. To respond to international and domestic economic challenges, developments at the Slovak economy increasingly focused on flexible production forms and the increasing role of services. Such macro-level changes lead employers to address their greater need for flexibility also in their relation with employees. In result, trends in industrialized countries within and outside Europe converge around flexible forms of work, often including a growing share of precarious elements in employment terms and conditions. This strong emphasis on market-driven solutions in the employment relationship implies a return from collective to individual contractual arrangements between employers and employees (Gallagher and Sverke 2005); and bears important implications for the workers' collective voice (Standing 1999). Employers face a double-pressure for market competitiveness and work flexibilization, while trade unions seek new ways of coping with precariousness and the interest representation of precarious employees (Kahancová and Martišková 2015).

While Slovakia is no exception in the above trends, there is limited empirical evidence and literature on precarious work and social partner responses in Slovakia and other CEE countries (Bernaciak and Jepsen 2013). To fill this gap, the current report explores the state of the art of precarious work in Slovakia, including legislation as well as incidence and the most relevant forms used by employers, the challenges of precarious employment, and actions that trade unions and employers developed in addressing precarious employment in Slovakia. The focus is on most common institutionalized forms of precarious employment. Informal work and other work arrangements that are not regulated through labour legislation are beyond the scope of this country report. The study is based on original empirical evidence collected between 2011 – 2015. By analyzing developments in precarious work and changing strategies and actions of unions and employers, the report extends and further develops the findings of two earlier EU-funded research projects on precarious work and social partner strategies in Slovakia.² The list of original face to face interviews conducted for the purpose of this project is presented in Table 1.

² Kahancová, M. and Martišková, M. (2011) and Kahancová, M. and Martišková, M. (2015).

Table 1 Overview of conducted interviews with respondents in Slovakia

Sector	Interview code	Organization	Type	Respondent position	Interview date PRECARIR	Earlier interviews used for PRECARIR	Interview theme	Interview processing
Metal		OZ Kovo	Trade union	Vice president and chief negotiator	15.7.2015	11.2.2014, 26.8.2014	Sector overview, legislative changes, current strives for improved regulation, employer and trade union initiatives in the automotive industry	Recorded and transcribed
	CAR1	Federation of Mechanical Engineering (Zväz strojárského priemyslu, ZSP)	Employers' association bargaining on behalf of car industry employers	Chief negotiator	19.11.2015	6.2.2014	Employers' challenges, responses to flexibility needs, non-standard work forms, collective bargaining	Recorded and transcribed
	CAR2	Federation of the Automotive Industry of Slovak Republic (Zväz automobilového priemyslu SR, ZAFPSR)	Professional organization	Managing vicepresident	10.7.2015	n/a	Employers' challenges, responses to flexibility needs, non-standard work forms	Recorded and transcribed
Construction	CAR3	Integrated Trade Union Federation (Integrovaný odborový zväz, IOZ)	Trade union	President, chief negotiator and representatives of company-level trade unions	10.12.2015	17.2.2014, 23.5.2014	Overview of the sector, legislative changes, trade union initiatives to avoid flexibility and precarious work, Forms of precarious work, reasons and consequences, union strategies	Recorded and transcribed
	CON1	Federation of Construction Entrepreneurs of Slovakia, (Zväz stavebných podnikateľov Slovenska, ZSPS)	Employers' association	President	26.10.2015	4.2.2014, 17.9.2014	Precarious work in the sector, flexibilization, employer strategies	Recorded and transcribed
	CON2							

TAW1	Asociácia poskytovateľov služieb zamestnanosti (APSZ)	Employers' association	Vice president	n/a	13.3.2014	Overview of the sector and employer associations structure, legislative changes, employer initiatives, attempts to launch collective bargaining	Recorded and transcribed
TAW2	HR Aliancia	Employers' association	President	23.9.2015	19.8.2014	Current challenges in the TAW sector and employer initiatives	Recorded and transcribed
TAW3	Association of Staffing Agencies of Slovakia (Asociácia personálnych agentúr Slovenska, APAS)	Employers' association	Vicepresident	7.9.2015	9.9.2014	Sector overview, current developments, legislative changes, employer initiatives	Recorded and transcribed
TAW4	OZ Kovo	Trade union	Vicepresident	15.7.2015	11.2.2014, 26.8.2014	Sector overview, legislative changes, current strives for improved regulation, employer and trade union initiatives in the TAW sector	Recorded and transcribed
HEALTH1	Slovak Trade Union Federation of Healthcare and Social Work (Slovenský odborový zväz zdravotníctva a sociálnych služieb, SOZZaSS)	Trade union	President, vice president, union lawyers	30.9.2015	31.1.2014	Precarious work in the sector, flexibilization, union strategies, recent protest actions of nurses and midwives	Recorded and transcribed
HEALTH2	Medical Doctors' Trade Union Federation (Lekárske odborové združenie, LOZ)	Trade union	President	12.11.2015	n/a	Precarious work in the sector, flexibilization, union strategies, recent protest actions of nurses and midwives	Recorded and transcribed
HEALTH3	Trade Union Federation of Nurses and Midwives (Odborový zväz sestier a pôrodných asistentiek, OZSaPA)	Trade union	President	n/a	3.3.2014, 30.5.2014	Precarious situation of nurses, reasons, union initiatives for solutions	Recorded and transcribed
TAW							
Healthcare							

HEALTH4	Slovak Chamber of Nurses and Midwives Slovenská komora sestier a pôrodných asistentiek, SKSaPA)	Professional organization	President, Managing Director	8.12.2015	n/a	Precarious work in the sector, flexibilization, union strategies, recent protest actions of nurses and midwives	Recorded and transcribed
HEALTH5	Association of Hospitals of Slovakia (Asociácia nemocnic Slovenska, ANS)	Employers' association	Vice president	n/a	11.9.2014	Precarious work in hospitals, employer initiatives	Notes taken, not recorded
HEALTH6	Association of State Hospitals of the Slovak Republic (Asociácia štátnych nemocnic Slovenskej republiky, ASN SR)	Employers' association	Association representative, hospital HR manager	n/a	28.2.2014, 3.7.2014	Overview of the sector, employer attitudes to current legislation and recent changes in pay regulations and working conditions, precarious work in hospitals, situation of nurses, employer responses	Notes taken, not recorded
RE/T1	Trade Union Federation of Employees in Commerce and Tourism (Odborový zväz pracovníkov obchodu a cestovného ruchu, OZPOCR)	Trade union	Union representative, negotiator	16.7.2015	n/a	Precarious work in the sector, flexibilization, union strategies	Recorded and transcribed
RE/T2	Federation of Trade and Tourism (Zväz obchodu a cestovného ruchu, ZOČR)	Employers' association	Vice president	14.7.2015	n/a	Sector overview, current developments, legislative changes, employer initiatives	Notes taken, not recorded
Retail							

Precarious employment refers to alternative, or non-standard employment forms, which bear relevant differences in comparison to a standard employment contract. Being part of a larger international comparative project, the report refers to definitions and dimensions of precarious employment elaborated in the project’s analytical framework (Kahancova, Koukiadaki and Trif 2015).

In Slovakia, the legally stipulated standard employment contract is an open-ended contract with full-time working hours (40 hours/week), with social security and health insurance deductions and entitlements, and with remuneration exceeding the statutory minimum wage. In contrast, precarious employment bears one or more of characteristics of precariousness, including uncertainty in job security, low level of wages and/or lack of sufficient social protection (i.e., dismissal, unemployment, pension, sickness and similar entitlements). For purpose of clarity and transparency, precariousness will be assessed in the types and categories of work/employment presented in Table 2.

Table 2 Employment and work arrangements types in the Slovak legislation

Work regulated by	Type	Type of work
Labour Code	Employment contract	Full-time open-ended contract (riadny pracovný pomer)
		Fixed-term contract (riadny pracovný pomer na dobu určitú)
		Part-time contract (riadny pracovný pomer na skrátený úväzok)
		Temporary agency work (dočasné pridelenie zamestnancov)
		Flexikonto – working time accounts
		Job sharing (delené pracovné miesto)
	Work performed outside of a regular employment contract	Work performance agreement (dohoda o pracovnej činnosti)
		Agreement on work activity (dohoda o vykonaní práce)
Non Labour Code		Dependent self-employment, bogus self-employment
		Civil contracts and business contracts according to the Civil Code and the Business Code (Mandátna zmluva, Zmluva o dielo)
		Other

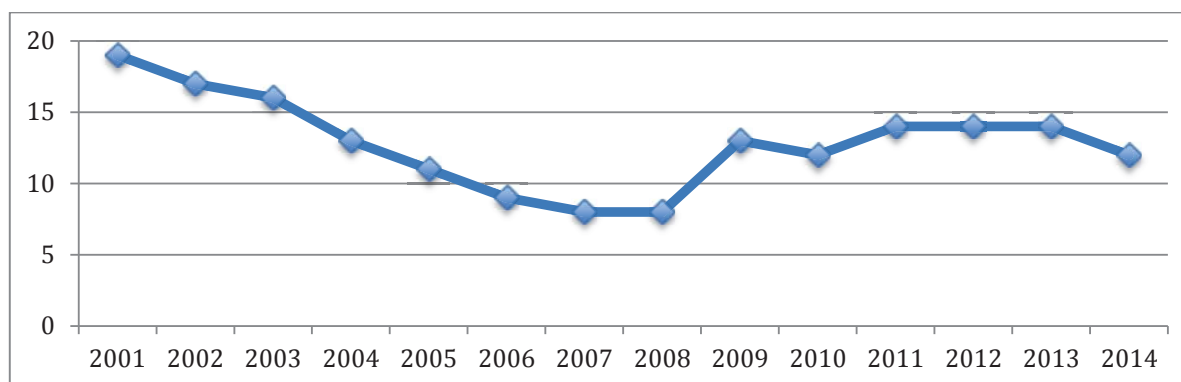
Table 2 shows that the forms of work can be broadly divided into categories that are regulated via the Labour Code, and categories that are regulated by other legal documents, most commonly the Civil Code and Business Code. Within the Labour Code (LC), the Slovak legislation distinguished between employment contracts and work performed outside of a regular employment contract. These legally stipulated categories of employment and work imply different elements and dimensions of precariousness (e.g. while standard employment may be low paid and thereby precarious, it enjoys a higher job security than in case of non-LC types of work arrangement). The remainder of this report analyzes these various forms of work and employment from the point of view of precariousness. As shown in part 2 of this report, each studied sector developed distinct orientations towards particular forms of work, thereby demonstrating different strength of precariousness along different dimensions. Before exploring sectoral developments, the remainder of the introductory section offers a brief overview of

Slovak labour market developments, followed by part I focusing on legal developments and in the incidence of particular forms of precarious work after 2008.

In the period after 1989 and especially after 1998, Slovakia evolved into an open, export-led economy with a high share of foreign direct investments (FDI). Economic growth through openness and FDI has been accompanied by several labour market reforms aiming at liberalization, deregulation and employment flexibilization. These regulatory changes occurred in response to persistent high unemployment rates despite economic growth (see Figure 1). The crisis interrupted Slovakia's positive economic developments. After the 10.5 per cent peak in GDP growth in 2007, real GDP growth declined to 5.8 per cent in 2008 and to -4.8 per cent in 2009. Growth recovered at 4.5 per cent in 2010 (Eurostat). Crisis effects were most visible in the production and labour markets, because of the economy's strong orientation on industry (automotive, electronics, steel, see Kahancová 2013). While unemployment has stabilized in late 2000s, it rose again as a consequence of the economic crisis after 2008 (see Figure 1). The crisis-induced economic changes stimulated an increased use of flexible employment forms and facilitated labour market dualization or segmentation between regular and precarious forms of work.

Structural changes in the economy strongly affected labour market participation. The employment rate exceeded 60% only by mid 2000s, further increased to 65.1% in 2012, and peaked at 65,9% in 2014³. Still, Slovakia belongs to countries with lowest participation rates in the EU.⁴ Employment is mostly concentrated in industry, commerce (wholesale and retail) and construction.⁵ Employment in trade, transportation and tourism gained importance while employment in agriculture has been steadily declining since 2000. The positive economic performance of the Slovak economy contributed to the fact that while in 2005 32% of total population were at risk of poverty, this figure decreased to 19,1% in 2014 (Eurostat).

Figure 1 Registered unemployment rate in % (2001 – 2014)



Source: Statistical Office of the Slovak Republic (Štatistický úrad Slovenskej republiky, ŠÚSR).

³ Data from Eurostat if no other source mentioned.

⁴ Eurostat

⁵ Statistical Office of the Slovak Republic (ŠÚSR, 2012)

In 2014, the average nominal gross monthly wage in the Slovak economy reached 964 EUR (ŠÚSR 2014). For men, the average nominal gross monthly wage in 2014 was 1,085 EUR and for women 834 EUR (ibid.). There is a persistent pattern in gender wage gap and regional disparities in wages. Women earned 76 percent of men's average gross wage in 2014. The proportion of low-wage earners reached 19 percent of all employees in 2010, 17.1 per cent among employees with indefinite contract but 29 per cent among employees with a fixed duration contract (Eurostat 2010).⁶

Slovakia's legislation recognizes a statutory minimum wage, anchored in the Act No. 663/2007 on Minimum Wage and its later amendments. A statutory monthly minimum wage reached 380 EUR in 2015 and will be further increased to 405 EUR from January 2016. The minimum wage applies for a full-time employee. The statutory minimum wage applies to employees in the lowest education/qualification levels, but in total the Labour Code recognizes six levels of minimum wage according to qualifications.

Structural unemployment, long-term unemployment, weak effectiveness of higher education, regional disparities in employment and wages, and the rise of non-standard and precarious employment forms are the most significant challenges that the Slovak labour market faces in the past decade. Unemployment rates belonged to highest in the early 2000s before plummeting at 8% in 2007-2008 (see Figure 1). In the post-crisis period, unemployment stabilized between 10-15%. As mentioned above, legislative efforts to decrease unemployment are accompanied by employers' desire to increase employment flexibility through the use of various non-standard forms of work.

⁶ A low-wage earner is an employee with annual gross earnings below two thirds of the annual full-time median gross earnings.

1. Precarious work in context

Precarious work in Slovakia mostly takes the form of legal employment forms (rather than illegal work), which however differ from standard employment contract in labour rights and social security entitlements. Legislative developments stipulating precarious forms of work have been introduced on several occasions since 2002. In the post-crisis period, three major legislative changes, introduced in 2011, 2012 and 2015 yielded consequences for precarious forms of work. The regulatory efforts corresponded to political cycles: while government with social democratic orientation (2006 – 2010 and 2012 – 2016) aimed to strengthen employment protection and the rights of precarious workers through stricter regulation, more liberally oriented governments (1998 – 2006 and 2010 – 2012) aimed to increase flexibility that facilitated the use of non-standard and precarious work forms. This section briefly reviews the main legal developments related to the particular forms of precarious employment and provides statistical evidence on the use of particular forms of precarious employment in Slovakia.

1.1 Legal developments

The Labour Code (LC) is the most important piece of legislation regulating employment conditions and labour relations in Slovakia. The importance of the LC for the regulation of precarious work is demonstrated, first, by the fact that most precarious employment forms are subject to LC regulation; and second, by the LC's frequent changes. In 2001, the government adopted a new LC (Act no. 311/2001 Coll.), which incorporated all relevant amendments to the previous Code (Act no. 65/1965 Coll.) in force for over 35 years.. LC changes derived from political preferences of incumbent governments and changes in government coalitions. Depending on center-left or center-right governments, LC amendments either facilitated or restricted precarious employment forms. In total, the LC underwent 19 amendments between 2002 and 2010 and further 10 amendments between 2011 and 2014.⁷ Below we review LC amendments between 2009 and 2015 that yielded relevant implications for precarious employment form listed in Table 1 above. To some extent these legislative changes represent a response to crisis-induced labour market changes.

The most important stipulations concerning precarious work in the LC prior to 2011 can be summarized in the following points (Kahancová and Martišková 2011):

- several employment contracts at once and changes to overtime work allowed (2003 and 2009, first under center-right government coalition, later overtime regulations introduced under a social democratic government)
- changes to the duration and the number of subsequent fixed-term contracts (several changes to this provision in 2003 – 2011, facilitating more subsequent fixed-term contracts under center-right governments)

- introduction of work agreements without any social security and health insurance contributions and changes to working time stipulated within such agreements (several changes throughout 2002 – 2011, initially introduced by a right-wing government coalition)
- definition of dependent work to decrease bogus self-employment (2007 and 2009 under the rule of a social democratic government)

The year 2011 brought a substantive revision of the LC initiated by a right-wing government coalition. Besides limiting trade union rights, this LC amendment (Act no. 257/2011 Coll.) aimed at further labour market flexibilization in order to combat the post-crisis growth in unemployment. This amendment caused intensive discussion among the public and media, e.g., because of the increased number of consecutive fixed-term contracts with one employer, which increased precariousness of temporary employment. Other new provisions, e.g. the introduction of job sharing, failed to stipulate job sharing in real work.

In 2012, an unexpected government change brought another amendment to the LC (Act no. 361/2012 Coll.), which reversed most of the changes introduced in 2011. This amendment raised the protection of temporary workers and limited agency work to standard employment contracts instead of highly precarious agreements on work performed outside of the standard employment relationship. The 2012 LC amendment became effective from January 2013 and left the previous Act no. 257/2011 Coll. in effect only for 16 months.

In response to greater use of temporary agency work (TAW) since the crisis, the last important LC amendment (Act No. 14/2015 Coll.), introduced in 2015, aimed to strengthen the regulation of TAW. The amendment defines what kind of work can be considered TAW and also introduces the term ‘end user employer’ for the employer where the TAW employee is assigned. A maximum to temporary assignment has been limited to 24 months, which include a maximum of four contract extensions or renewed contracts that assign the employee to the same end user employer. Furthermore, the LC amendment stipulates that TAW agreed for a fixed term needs to specify the date of the contract end, thus it is no longer possible to assume that the TAW contract ends with assignment to a particular end user employer. The LC amendment also provides a more detailed list of dismissal reasons for agency workers, thereby increasing their job security.

In sum, the scope of the LC has gradually broadened from setting formal employment conditions in standard employment contracts to governing non-standard, often precarious, forms of employment and their specific conditions of dismissal, pay, job security and social security access. The involvement of trade unions in the formation of legislative changes is the most important trade union action related to precarious work in Slovakia (see Section II for details on union involvement in particular sectors).

1.2 Form and incidence of precarious employment in the economy

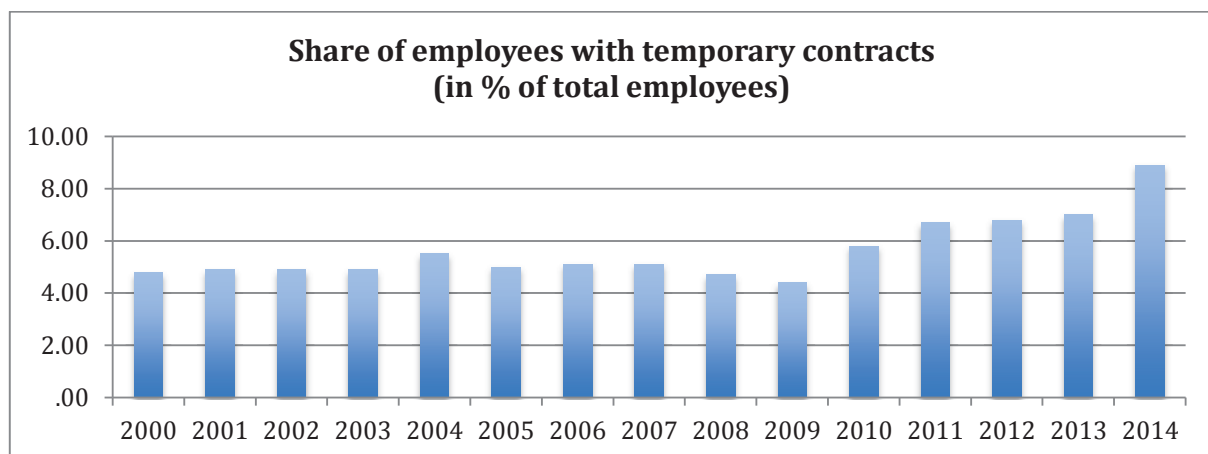
In the light of general legislative developments presented above, this section reviews the most important forms of precarious work, their incidence based on statistical evidence and basic characteristics of specific legal regulation referring to these employment forms.

1.2.1 Temporary employment (fixed-term contracts)

Legislation on fixed-term contracts has been subject to several LC amendments. Until 2007, the maximum length was 3 years with an indefinite number of prolongations. This provision reduced job security and mobilized the social democratic government to change the provision to one extension within 3 years. In 2010, another amendment stipulated two prolongations within two years. The next amendment one year later allowed for three prolongations in three years. The latest relevant amendment of the LC from 2013 again reverted to two prolongations within two years.

The share of temporary employment on overall employment is on the rise especially in the post-crisis period (see Figure 2). The share of involuntary temporary contracts has also increased since the crisis and peaked at 87.3 per cent in 2014, exceeding the EU-28 average of 62.3 per cent in the same year (see Table 3). The share of involuntary temporary employment in Slovakia significantly exceeds the EU average. The main reported reason of (involuntary) temporary employment is the inability to find a permanent job.

Figure 2 Trends in temporary employment in Slovakia (2000 – 2014)*



* Including temporary agency workers. The estimated share of TAWs is from one half to two thirds of all temporary workers.⁸

Source: Eurostat

⁸ Kahancová and Martišková (2015: 12).

Table 3 Reason for temporary employment: could not find permanent job (%)

	2008	2009	2010	2011	2012	2013	2014
EU average	59,7	60,4	61,7	60,6	61,1	61,9	62,3
Slovakia	74	79,5	76,1	84,5	84,6	86,9	87,3

Source: Eurostat

The incidence of temporary employment among women is marginally higher than among men, although the gender gap in temporary employment is not as significant as in part-time employment. 9 per cent of active women and 8.5 per cent of active men on the labour market were working in a temporary job in 2014.⁹ Such jobs are often present in sales and elementary works that do not require specific skills, therefore also offering opportunities for the less skilled or otherwise disadvantaged individuals. Besides women, another vulnerable group in the labour market is young people aged 15-24, whose share in temporary employment increased in the post-crisis period from 12.5 per cent in 2009 to 19.1 per cent in 2012 and 28.2 per cent in 2014.¹⁰

1. 2. 2 Part-time employment

The Slovak legislature distinguishes two types of part-time employment. The first one is *regular part-time employment (half-time employment)* with 50% of the regular working time and 50% of a fulltimer's wage.¹¹ The second type of part-time employment is *employment with reduced working time* (§49 of the LC), introduced in the 2008 amendment, in response to particular crisis-induced pressures to allow more flexibility in the labour market. The definition of reduced working time employment is work for less than 40 hours per week. The employee with reduced working time may work any number of agreed hours below 40 hours/week whereas his/her working time does not have to be equally distributed throughout the working week. The employer is obliged to inform employees with reduced working time, as well as their representatives, about the weekly working time plan and holiday entitlements.

Part-time work is not necessarily precarious on the job security dimension and social security entitlements, but in several indirect ways. First, given the fact that the ratio between wages and living expenses in Slovakia is tighter than in most Western European countries, part-timers are precarious on the low wage dimension because their earnings yield a lower purchasing power, smaller pension entitlements and social benefits calculated on the basis of wage. Second, part-time work is increasingly used in sectors like retail, where employers benefit from overall workforce flexibility. If part-time work is unevenly distributed through the working week,

⁹ Eurostat.

¹⁰ Eurostat.

¹¹ Maximum weekly working time is 40 hours. The LC includes specific stipulations on overtime work: weekly working hours including overtime should not exceed 48 hours over a period of four months, and annual overtime ordered by employer should not exceed 150 hours. The employer may agree to additional 250 hours of annual overtime, whereby the total annual overtime does not exceed 400 hours.

employees (partly) lose control over determining their working conditions, are exposed to working time abuse (working longer hours than agreed) and uncertainty in planning their private lives, and lack the possibility to improve their wage through overtime payments. In fact, there is evidence on such practices in some large retail employers, with trade unions monitoring and reporting such cases to the National Labour Inspectorate (Kahancová and Martišková 2011).

Although part-time work is relatively marginal in Slovakia, between 2008 and 2014 the share of part-time employment in total employment increased from 3.5 percent to 11 percent (see Table 3). An interesting aspect of part-time work from the perspective of precariousness is involuntarily part-time work due to a lack of regular full-time job vacancies or because of employers' preferences (e.g., in retail, in order to better adjust shops' opening hours through a flexible pool of part-timers). Table 3 also documents the slightly growing trend in involuntary part-time work in the post-crisis period, which significantly exceeded the pre-crisis levels in involuntary part-time work.

Table 4 Part-time employment as % of total employment and involuntary part-time work in the 15-64 age group, Slovakia

	2008	2009	2010	2011	2012	2013	2014
Part-time workers in % of total employment	3,5	5,1	7,4	6,7	7,3	9,2	11,0
Involuntary part-time employment as percentage of the total part-time employment (age 15-64)	23,0	22,3	27,7	24,4	32,1	32,4	33,4

Source: Eurostat.

The number of hours worked by part-timers in Slovakia is relatively stable and oscillates around 20 weekly hours (e.g., 21 hours in 2008 compared to 19 hours in 2014).¹² While in the pre-crisis years Slovak part-timers worked on average more hours than part-timers in other EU countries, the post-crisis period brought the average Slovak part-timer's hours close to the EU average. The majority of part-timers work in elementary occupations and in sales. The share of these occupational groups on part-time work has been further increasing in the post-2008 period, suggesting the need for higher flexibility in these occupations after the crisis. There are more women than men working in a part-time job. However, in general part-time work in Slovakia is marginal compared to the EU average. In 2014, only 6,9 percent of employed women worked in a part-time job, compared to the EU average of 32,8 percent. While the EU average shows 9,9 percent of employed men working in a part-time job, in Slovakia 3,9 percent of employed males in 2014 worked as part-timers.¹³ The incidence of part-time job among young people is higher

¹² Eurostat.

¹³ Eurostat

than in other age groups: in 2014, 11 percent of employed persons aged 15-24 had a part-time job.¹⁴

1. 2. 3 Temporary agency work

The increase of TAW occurred hand-in-hand with production changes in the mechanical engineering, automotive industry and electronics before and after the crisis. Being a relatively new employment form in Slovakia, the practice of TAW called for responses on the legislative side. A legislative response became even more urgent in the post-crisis years when TAW has been increasingly used as a flexible but precarious employment form. In result, several important legislative changes followed since 2011. The most important regulatory changes include non-discrimination in pay, restriction of TAW exclusively to a regular employment contract (thus no longer through work agreements), limited number of prolongations of a TAW contract, limited use of travel reimbursements, and shared responsibility of the end user employer for TAW workers if the agency fails to pay wages, taxes and other obligatory contributions from employment. These changes came as a response of frequent abuse of TAW, e.g., employing TAW workers on work agreement contracts instead of regular employment contracts, and paying part of wages through travel reimbursements to avoid taxes and social security contributions. Work agreements are precarious because of a shorter notice period of 15 days, and lack of any social and healthcare insurance prior to 2013.

Finally, legal changes were adopted to better regulate the operation of temporary work agencies, in order to increase their credibility and limit unfair employment practices. Following the EC Directive 2008/104/EC, also the Act on Employment Services was amended. This law explicitly forbade agencies to charge employees for assignment to end user employers, or to terminate the temporary assignment after concluding the contract with the end user employer. Moreover, TAWs should be granted access to training and other benefits provided by the end user employer. Company-level collective agreements however do not cover agency workers.¹⁵

Further motivation for legislative changes was the high number of registered agencies. The aim was to prevent bankruptcies of agencies and illegal employment practices vis-à-vis agency workers. The Amendment of the Act on Employment Services from May 2013 obliged the agencies to document possession of capital in at least the value of 30,000 EUR on an annual basis. The same stipulation applies to registration and licenses to new agencies. This should prevent existence of small agencies with low equity capital, which could be easily exposed to bankruptcy without clearing their obligations towards their employees (Kahancová and Martišková 2015). The number of licenced agencies declined only moderately: in June 2015, the Central Office of Labour, Social Affairs and Family (*Ústredie práce, sociálnych vecí a rodiny, ÚPSVaR*) reported 406 agencies losing their licences and 1,305 actively licensed agencies.

¹⁴ Eurostat.

¹⁵ Source: interview with Personnel director at Volkswagen Slovakia employing also TAWs, interview not part of the PRECARIR interview list.

ÚPSVaR is obliged to withdraw the license of a temporary agency in case the annual report on activity is not submitted, when the agency does not assign any worker to an end user employer within a period of one year, or if the agency engages in illegal employment practices. In 2015, ÚPSVaR recalled 76 licences for agencies because they have not assigned any agency worker to an end user employer in the period of one year (2014 – 2015).¹⁶

1. 2. 4 Flexikonto

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

If for serious operation reasons the employee cannot perform his/her work, the employer is entitled to provide employees with time off from work while paying the basic wage. When the employers' economic condition stabilizes, employees have to work off the provided leave. The work has to occur outside regular working hours and is not considered paid overtime work.

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

Company-level trade unions enjoy a co-determination right on flexikonto implementation; and employers and unions can agree favourable conditions beyond the LC for employees in the flexikonto scheme.

1. 2. 5 Job Sharing

Inspired by the experience from other countries including Denmark, Germany and Hungary, the Slovak Labour Code amended in 2011 accommodated several new provisions with the aim to increase flexibility. The introduction of job sharing (*Delené pracovné miesto*) was one of such novel provisions. In contrast to Denmark, where the primary motivation for job sharing was to

¹⁶ Source: ÚPSVaR.

mitigate the effects of the financial crisis (Jørgensen, 2011), the main reason behind the introduction of job sharing in Slovakia was to institutionalize the possibility of flexible employment for employees unwilling or unable to engage in full-time employment (e.g., working parents).

Even though the social partners and other stakeholders were involved in negotiating the LC amendment, they did not specifically engage in discussions about job sharing regulations. The reason behind such marginal involvement was the combination of lack of their interest and information. Trade unions supported the implementation of job sharing, however, they expressed concerns about possible misuse of this legal provision by employers that could officially hire two people for shared position and then expect them to work full-time or more than agreed. Moreover, questions were raised about control mechanisms for job sharing itself, since in practice it is up to the job sharers to ensure smooth work operations.

Statistical evidence does not document the use of job sharing, and the government's estimate is that its use is marginal. Job sharing is not specifically promoted or supported through governmental labour market policies. According to the Ministry of Labour, the possibility of job sharing remains largely unknown to both employers and employees.¹⁷ One of the reasons is the existence of work agreements discussed above, which are widely used and to some extent crowd out other flexible employment forms.

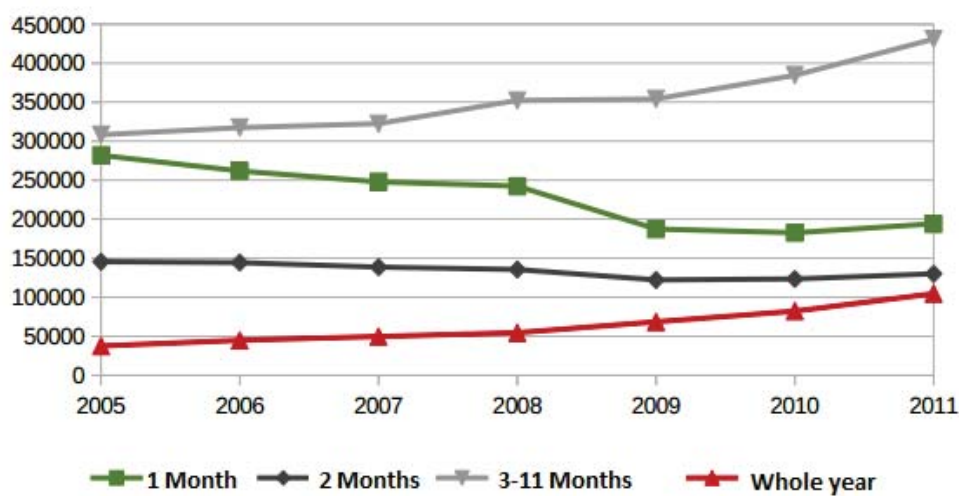
1. 2. 6 Work agreements

The Slovak legislation recognizes two types of contracts outside of a regular employment relationship, called also *work agreements*. Until 2013, work agreements were considered highly precarious because of not being subject to social security or health insurance contributions. Therefore, workers with a work agreement as their main source of income were not entitled for any social security benefits including pensions, unemployment or sickness benefits. At the same time, the virtually non-existing social contributions yielded this type of employment very attractive for employers, but also for workers in a vision of higher net payment. For example, in temporary agency work such agreements commonly crowded out standard employment contracts. In other sectors, e.g. in healthcare work agreements continue to be widespread as an additional source of income next to standard employment contracts of medical professionals (e.g., a doctor working in a private healthcare provider for a defined number of hours next to his/her standard employment contract in a public healthcare provider). The crowding out effect of work agreements on standard employment contracts is documented also by the increasing number of employees with work agreements lasting more than three months and a decline in short-term work agreements (see Figure 3).

¹⁷ Source: interviews at the Ministry of Labour, Social Affairs and Family of the Slovak Republic and the Slovak Trade Union Confederation for the study on new forms of employment, commissioned by Eurofound (Kahancová and Sedlaková 2014).

Post-crisis austerity measures, a negative balance of the Slovak Social Security Authority (*Sociálna poisťovňa*), coupled with political goals, motivated the social-democratic government of the SMER party to introduce obligatory social security and health insurance contributions on agreement contracts since 2013. These deductions approximate the same level as deductions for employees with a regular contract. Therefore, work agreements lost their attractiveness to employers and their use dropped sharply since January 2013 (see Figure 4).

Figure 3 Length of stay in work agreement (number of employees)

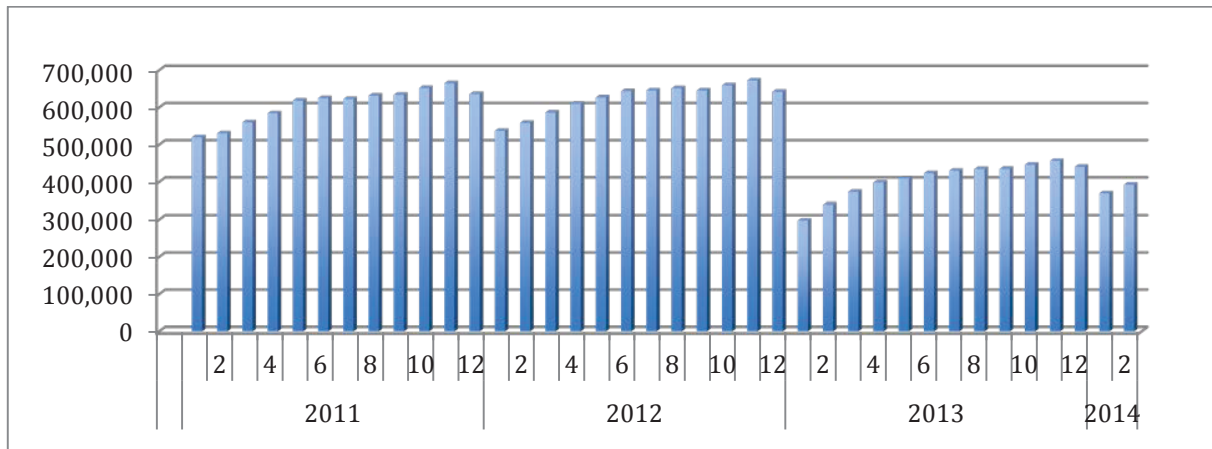


Source: Employment Institute (Inštitút zamestnanosti); adaptation of data provided by the Slovak Social Security Authority (*Sociálna poisťovňa*).

While improved access to social security benefits and healthcare services significantly decreased the precariousness of work agreements, on some labour provisions they still lag behind standard employment contracts. These include mainly the following regulations: shorter dismissal notice of 15 days, no right for meal vouchers, no right for holidays, limited maximum working time, no dismissal pay. The number of hours worked for one employer regularly cannot exceed 10 hours per week or 350 hours per year, depending on the relevant type of a work agreement. Therefore, these contracts most usually do not provide for a decent living standard unless serving as a supplement to a regular employment contract. In the TAW sector, agreement contracts have been explicitly forbidden through legislation.

Statistics of the Slovak Social Security Authority further reveals that the average number of work agreements per one person is 1.3. This suggests that most usually workers do not have only one, but several small work agreements simultaneously.

Figure 4 Number of registered work agreements before and after the 2013 labour law change in Slovakia*



* Since January 2013, the Slovak legislation distinguishes between work agreements with regular income and work agreements with irregular income. The latter is subject to lower social security contributions.

Source: Social Security Authority (*Sociálna poisťovňa*), monthly data.

Besides the above elements of precariousness, the flexibility of work agreements is also the reason of their popularity and common use. If not abused to crowd out regular employment, agreement contracts allow employees to increase their professional experience and thus enhance their professional development. There are no specific data on how agreement contracts influence different types of employees, for example women or young workers.

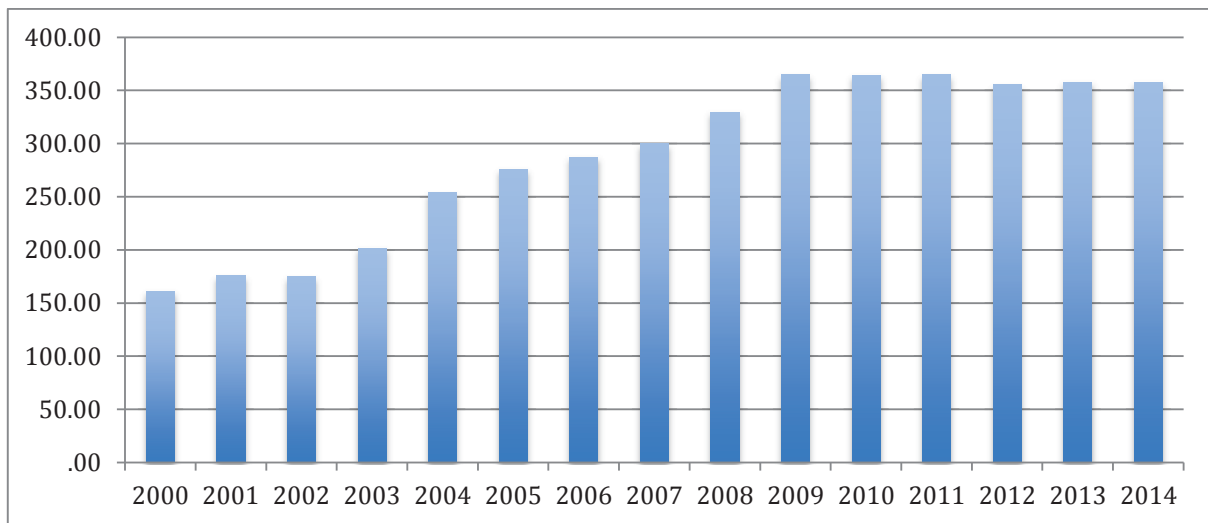
1. 2. 7 Self-employment and bogus self-employment

The number of self-employed people in Slovakia grew from 161 thousands in 2001 to 329,8 thousands in 2008. Self-employment is concentrated especially in the construction sector, IT sector, media and retail. In the immediate aftermath of the crisis, self-employment has peaked at 364,8 thousands before slightly declining to 357,8 thousands in 2014 (see Figure 5).

It is estimated that a considerable part of self-employment comes from bogus self-employment. Since 2010, the Slovak Statistical Office (*Štatistický úrad Slovenskej Republiky, ŠÚSR*) launched data collection on bogus self-employment as part of a household survey.¹⁸ Evidence of ŠÚSR reveals that the number of bogus self-employed has increased from 78,500 in 2010 to 107,600 in

¹⁸ The survey incorporates two questions, which help distinguishing regular self-employment from dependent (or bogus) self-employment. Source; SME, 15. 12. 2013, Fiktívnych živnostníkov namerali najviac od roku 2010 [The highest number of bogus self-employed recorded since 2010], at <http://ekonomika.sme.sk/c/7040557/fiktivnych-zivnostnikov-namerali-najviac-od-roku-2010.html> [accessed 29.9.2014].

Figure 5 Self-employment in Slovakia in thousands (age 15 – 64)



Source: Eurostat

the third quarter of 2013.¹⁹ In the first quarter of 2014, the number of declared bogus self-employed declined to 99,700.²⁰

To address the rise of bogus self-employment, the 2007 LC amendment introduced the definition of dependent work in 2007, subject to further modification in 2012. The revised definition consists of 6 defining characteristics: salaried work, carried out personally by an employee who is in a relationship of subordination vis-à-vis the employer, upon the employer's instructions, in its name and in the working hours specified by the employer. The amendment also clarifies that dependent work may be carried out only by way of employment under the LC and not under the terms of some other forms of civil or commercial contractual relationships.

This regulation still fails to prevent extensive bogus self-employment; and it rather offers a legal framework for the existing but not many court cases. The little impact of this regulation is also reflected in statistics: the 2007 and 2012 LC amendments had marginal effect on trends in self-employment (see Figure 5). The decline in self-employment is attributed to increasing taxes and social security contributions to this form of work in the post-crisis period, which yielded a shift from self-employment status to the establishment of one-person companies (ibid).

¹⁹ Source: *ibid.*

²⁰ Source: Institute for Economic and Social Analyses, <http://www.iness.sk/stranka/9703-Zivnostnikov-je-najmenej-za-sedem-rokov-zalozili-si-eserocky-Sme.html>

1.3 Conclusions

Trends in employment forms and their regulation in Slovakia suggest that flexible employment forms have been gaining importance in Slovakia in the post-crisis years. The incumbent governments and parliaments, sometimes upon pressure of the social partners (see Part II of this report), adopted a responsive approach and introduced several legislative changes to regulate non-standard and precarious work forms. The only relevant legislative change with a direct effect on statistical trends has been the introduction of obligatory social security and health insurance contributions on work agreements. This produced a sudden drop in the use of work agreements and also made work agreements far less precarious forms of employment than before 2014. Because changes on work agreements increased the cost of labour, employers turned their attention to other forms of flexible employment; and TAW and self-employment have been gaining importance in the post-crisis years. Most legislative changes were politically motivated (with right-wing governments supporting flexibility and social democratic governments reducing precarious forms of work); nevertheless, in the post-2011 period most regulatory stipulations operated towards decreasing precarious employment and stabilizing working conditions.

2. Facing precarious employment in selected sectors

After the general overview, this section takes a closer look at precarious work forms in five selected sectors of the Slovak economy in the post-crisis period. The focus is on the actions, initiatives and attitudes of trade unions and employers' organizations to address the challenges raised by these forms of precarious work in each sector; and the implications of such actions on the quality of work as well as on social dialogue and industrial relations institutions. Each sectoral case study attempts to answer the following research questions:

- What are the trends in precarious work in the post-crisis period?
- Which forms of precarious work dominate in the sector and what factors contributed to their development?
- What initiatives have sector-level social partners (employers and trade unions) taken in response to the trend of labour market flexibilization and the rise of precarious employment?
- How to understand social partner approaches, strategies and actions in the light of the project's analytical framework?
- How effective is their action and what are the implications for the extent and type of precarious employment and for the future of industrial relations institutions in these sectors?

2.1 Industrial relations in Slovakia

A brief outline of the Slovak industrial relations helps understand the structure of interest representation and the dominant channels of influence of employers' associations and trade unions. Industrial relations in Slovakia are organized hierarchically with established national-tripartite, sectoral (tripartite, multi-employer and bilateral) and company-level social dialogue structures.

Trade union density and bargaining coverage have been declining in the past two decades (see Tables 5 and 6). Employer density (employees in companies organized in employers' organizations as a proportion of all wage- and salary-earners in employment) is relatively stable around 30% (between 33 per cent in 2002, 29 per cent in 2008 and 30,5 per cent in 2013)²¹. With company-level bargaining becoming stronger, the enforceability of sector/industry agreements weakened and bargaining coverage systematically declined from 51 per cent in 2000 to less than 25 per cent in 2013 (see Table 5). The reasons include low trade union and employer density and the limited use of statutory extension mechanisms to increase bargaining coverage.

²¹ Source: ICTWSS database, version 5.0 (2015).

Table 5 Collective bargaining coverage, %*

	2000	2005	2011	2013
Slovakia	51	40**	35	24.9

* Employees covered by collective (wage) bargaining agreements as a proportion of all wage and salary earners in employment with the right to bargaining, expressed as percentage, adjusted for the possibility that some sectors or occupations are excluded from the right to bargain (removing such groups);

** previous year

Source: ICTWSS database 4.0 (data code: AdjCov)

Table 6 Trade union density, %*

	2008	2009	2010	2011	2012	2013
Slovakia	17.2	16.0	15.2	14.1	13.6	13.3

* Net union membership as a proportion of wage and salary earners in employment

Source: ICTWSS database 5.0 (2015, data code: UD)

The role of national-level social dialogue is to review/comment/debate all relevant policy issues, mostly related to legislative proposals, and serve as an advisory body to the government, without the conclusion of national tripartite agreements. Collective bargaining takes place at the sectoral and company level. Sectoral bargaining takes place in relevant sectors, but is characterized by lack of regular pattern setting and a weak involvement of peak-level social partners that participate in the tripartite committee.²² Wages, employment security and working conditions are the most important bargaining issues. Sector-level bargaining is widespread in the public sector and in certain crucial private sectors, including the automotive, steel, electronics, chemicals, construction and transport industries. Sector-level collective agreements normally include also wage stipulations. In some sectors, social partnership played an important role in overcoming the main effects of the crisis. In result, the crisis did not undermine bargaining coordination at the sector level, but contributed to its consolidation in some key sectors of the Slovak economy, including the automotive industry, steel, electronics and public healthcare (Kahancová 2013). In other sectors, e.g., tourism, commerce, agriculture, sectoral collective agreements exist but remain generally formulated (often without wage stipulations) to meet the diverse interests of various stakeholders.

Despite the existence of sectoral bargaining, all interviewed social partners confirmed that national-level legal regulation next to company-level bargaining are increasingly important for shaping working conditions of precarious employment forms. The crisis further undermined the established bargaining system as a result of the diverging interests of employers (employment flexibility), trade unions (employment security) and the government (employment stability). An increased reliance on legislation also reflects the weakening capacities of social partners to negotiate better working conditions through collective agreements at the sector level. Within this trend, the actions of social partners in each sector tend to concentrate either on shaping national-level legislation, or on gaining relevant concessions in company-level bargaining (see sections below for more details).

²² Source: ICTWSS database, version 4.0 (2013).

2.2 Sectoral case studies

2.2.1 Construction

2.2.1.1 Economic developments and employment trends in construction

Construction underwent a major boom in Slovakia's growing economy in the 2000s. At the same time, the sector was significantly affected by the crisis, mainly because decrease in public investments, lack of contracts and insolvency of construction companies. In turn, these trends resulted in employment decline (see Table 7). Another effect of the crisis was the crowding out of smaller construction firms, because the few large construction companies were more eager to accept smaller contracts and thereby pushed out smaller companies from the market.²³ The EU's structural funds (e.g. in transport construction) and recent debates in increasing transparency in public procurement aim at supporting the recovery of the construction sector.²⁴

Table 7 Employment in construction

Year	2008	2009	2010	2011	2012	2013	2014
Average number of employees	180,836	184,384	179,551	173,039	165,254	158,575	156,785

Source: ŠÚSR, monthly statistical data, <http://www.statistics.sk/pls/elisw/MetaInfo.explorer?obj=11&cmd=go&s=1004&ss0=4&so=21>

The stagnating business in the sector drove down wages in the largest construction companies and among the self-employed, but in medium-sized firms wages increased in 2014 and 2015 (see Table 8).

²³ Source: interview CON1.

²⁴ Source: interviews CON1 and CON2.

Table 8 Production and wages in the construction sector

Enterprise size by number of employees	Construction production (mil. EUR)*		Average number of employed persons	Average nominal monthly wage of employed persons (EUR)	
	1.-5.2015	Index**	Index	1. - 5.2015	Index
		1. - 5.2015 1. - 5.2014	1. - 5.2015 1. - 5.2014		1. - 5.2015 1. - 5.2014
0 – 19	253,5	104,9	97,6	517	104,1
20- 49	192,2	122,0	96,9	777	108,3
50 – 249	288,6	113,9	100,5	897	105,7
250 – 499	66,2	239,9	133,3	1188	79,9
500 and more	290,2	130,7	92,4	1198	101,8
Self-employed***	498,6	90,5	98,3	382	96,1
Total	1589,3	109,4	98,5	589	101,7

* Carried out by own employees, construction establishments of non-construction enterprises excluded

** Constant prices, average of 2010 = 100

*** Estimate

Source: ŠÚSR

A wide usage of self-employment is an inherent feature of the construction sector. In the immediate post-crisis years, the decline in employment mostly affected the self-employed, which can be considered as a flexible workforce buffer for construction companies (see Table 9). In 2014, over 41 per cent of employees in the construction sector were self-employed. In 2015, the extent of self-employment in construction declined to 31.4 per cent.²⁵ While still the dominant employment form in construction, the declining popularity of self-employment can be attributed, first, to changing legislation on social security contributions of the self-employed; second, to recent highly medialized scandals among large construction companies in 2014 that failed to pay for services delivered by a high number of subcontracted self-employed; and third, to increasing attention of construction companies to use other forms of flexibility, most notably flexikonto for permanent employees.

Table 9 Trends in employment and self-employment in the construction sector

	2009	2010	2011	2012	2013
Employment trends in construction	-0.39%	0.31%	-5.45%	-1.19%	-3.29%
Self-employed in construction	14.39%	-1.14%	-2.05%	-5.72%	-7.90%
Self-employed without employees in construction	14.96%	-1.50%	-0.81%	-5.12%	-6.80%

Source: Eurostat.

²⁵ ŠÚSR.

2. 2. 1. 2 Forms of precarious work

The public procurement processes, quality of vocational education and related long-life learning are the most problematic issues in the sector according to social partners.²⁶ Trade unions also point at the extensive spread of self-employment and some use of undeclared work, which has consequences for the quality of work but also for the quality of the construction industry.

The growing precariousness of work in the construction sector derives from the post-crisis decreases in construction activities, and the necessary employer responses to these trends. The most common forms of precarious work include project-based fixed-term work, the wide use of self-employed subcontractors, and finally the increasing use of flexikonto in recent years. The latter two forms of flexibility dominate the construction sector and derive from employers' general preference to establish long-term but flexible relationships with employees because of their qualifications, skills and cost containment for training and hiring.

Interestingly, neither unions nor the sectoral employers' association perceive self-employment as bogus self-employment, despite media presenting the construction sector as one of the most important sectors with high incidence of bogus self-employment.²⁷ Employers argue that self-employment is a natural element in a sector strongly organized along a supply chain principle.²⁸ Precariousness of self-employment relates mainly to job security, lack of voice and bargaining coverage, responsibility for the quality of construction services delivered, and health and safety matters at the workplace. The IOZ Union points to the fact that the high number of self-employed at a construction site causes lack of transparency in quality control, as well as for responsibility over workers' health and safety. While employers prefer supplier relationships with the self-employed to regular employment, they acknowledge critique to frequent changes of the labour legislation, which negatively influences the working conditions of the self-employed. In particular, employers highlight that recent legislative changes have increased costs and the administrative burden for the self-employed.²⁹ Finally, the union is concerned with membership loss because of the spread of self-employment.

Besides the extensive use of self-employment, an increase in precariousness derives from the irregular distribution of working time throughout the calendar year. Working-time accounts existed in construction companies already before the crisis, but their use intensified after the crisis when employers were seeking to address their increased needs of flexibility while retaining their core workforce.³⁰ Flexikonto comes with uncertainty regarding workers' workload, wages,

²⁶ Source: interviews CON1 23.5.2014 and CON2 17.9.2014.

²⁷ Source: SME, 15.12.2013, in <http://ekonomika.sme.sk/c/7040557/fiktivnych-zivnostnikov-namerali-najviac-od-roku-2010.html> [accessed 15.9.2014].

²⁸ Source: interview CON2, 17.9.2014.

²⁹ Source: interview CON2, 4.2.2014.

³⁰ Source: interview CON1, 23.5.2014.

and overtime payments. Employers welcome the use of flexikonto while trade unions accept it but remain critical:

“...flexikonto gives even 30 months to clear up the working account, this is very unfortunate. ... We try to have working time accounts for a quarter or 4 months at maximum.[....] We think it is also very unfavourable to employers, because they by law have the obligation to register and monitor the hours worked, so it is a great administrative burden for such a long period of time.”³¹

Table 10 summarizes the incidence of various precarious employment forms in the construction sector.

³¹ Source: *ibid.*

Table 10 Precarious work in the construction sector (dominant forms only)

Quality of working conditions						
	Incidence	Wages	Working time	Job security	Social security	Voice
Full-time open-ended contract	Declining share among people physically involved in construction (including engineers and architects) Gradually replaced by project-based employment and self-employment	Collective wage regulation – tariffs at sector and company level Sectoral benchmark regulation also for companies not covered by sectoral agreements*	Standard stipulated, with overtime payments, no major disputes	Decline in construction – dismissals; even large companies no longer keep the stable skill-based employment basis but prefer flexible hiring	In accordance with legal stipulation Some entitlements only after 2 years of work (e.g. unemployment benefit)	High (reasonable level of organization, high bargaining coverage)
Fixed-term contracts	Growing importance due to: seasonality, demand for flexibility, project-based hiring replacing open-ended contracts	- Same as in case of full-time open-ended employment contract	- Same as in case of full-time open-ended employment contract	At times of construction boom, seasonal security of contract renewal in the new season. Currently: increased job insecurity*, also through flexikonto arrangements	Same as in case of full-time open-ended employment contract	High (reasonable level of organization, high bargaining coverage)
Flexikonto	Growing importance to secure flexibility while keeping a pool of qualified workforce in times of economic downturn	Collective wage regulation – tariffs at sector and company level Sectoral regulation serves as benchmark also for companies not covered by sectoral collective agreements	Dispute over working time – union critique that periods too long, no overtime payment	Growing insecurity, lack of long-term job security although flexikonto period by law up to 30 months	In accordance with legal stipulation Some entitlements only after 2 years of work (e.g. unemployment benefit)	High (reasonable level of organization, high bargaining coverage)
Self-employment	Wide spread and important form of employment in recent years because of high flexibility in hiring and firing, seasonal work, advanced supplier chains;	- not necessarily seen as 'bogus' self-employment				Lack of institutional voice, but unions do lobby for working conditions of self-employed

Source: interviews with trade unions and employers in the construction sector; Bulla et al. (2014), Eichhorst et al. (2013)

* Source: interview CON1, 23.5.2014.

2. 2. 1. 3 Industrial relations in the construction sector

The construction sector has a fairly established sectoral social dialogue and bargaining structures, with sector-level collective agreements regularly concluded (see Table 11). Social dialogue and collective bargaining is effective; employers appreciate that trade unions take into account the economic situation in the sector and formulate realistic demands, which underlines mutual cooperation and the sustainability of sector-level bargaining. Multi-employer agreements mainly cover large companies, including multinationals. Trade union membership seems low; however, the sector-level trade union covering the construction sector (*Integrovaný odborový zväz, IOZ*), appreciates the fact that bargaining coverage reaches out to a significantly higher number of construction employees through the extensive membership base of the sectoral employers' association (*Zväz stavebných podnikateľov Slovenska, ZSPS*).³² At the same time, IOZ claims that the high number of self-employed and the increasing number of employees with fixed-term contracts negatively affects trade union membership in the sector.

Table 11 Industrial relations in the construction sector

Trade union	Integrovaný odborový zväz (IOZ), construction division (organizing 67 establishment-level trade unions in construction companies)
Trade union density in the sector	About 5-6% (2011)
Employers' association	Zväz stavebných podnikateľov Slovenska (ZSPS), 110 members (2014)
Dominant bargaining level for collective agreements	Sectoral level and establishment level
Sectoral bargaining coverage	Estimated at 10-30% 67 companies have trade unions established, in total 207 construction companies covered by sectoral collective agreement (2014)

Source: Czírnia (2013); CON1 and CON2 interviews.

2. 2. 1. 4 Trade union and employers' approaches, actions, best practices

The construction sector is the only studied sector where the long established and functioning industrial relations structures brought joint initiatives in improving working conditions. Despite the fact that the employers' association ZSPS and the trade union IOZ differ in their fundamental opinions on employment flexibility, they share their concern on the quality and equality in working conditions in construction.

The most important issue that is subject to social partner responses in construction is the wide use of self-employment that continues replacing part of regular employment contracts. As already mentioned, social partners do not perceive self-employment necessarily as precarious. Instead,

³² Source: interview CON1, 17.2.2014.

they realize it is unlikely to reverse the self-employment trend, and therefore are motivated to improve the working conditions of the self-employed, predominantly through legal regulation. Although the trade union would like to see more standard employment in large construction firms, it accepts the fact that the seasonal character of construction requires a high degree of flexibility, which is achieved via extensive self-employment and recently also through an increasing use of flexikonto. Therefore, from the trade union perspective, the rationale is to facilitate more equality between regular employees, employees with flexikonto and the self-employed.

From the employers' perspective, regulatory and moral rationales, coupled with organizational rationales, best describe the rationale behind employers' approach vis-à-vis non-standard work in the construction sector. This finding holds together with the assumption of the relevance of economic rationales for employer action (e.g., securing contracts and a cost-survival strategy). In particular, employers seek to maintain flexibility while improving the regulatory/normative conditions for operation of construction firms, in order to eliminate unfair practices vis-à-vis employees and even more importantly vis-à-vis the self-employed due to their overall relevance in the construction sector. This is because self-employed are often at the very end of the long subcontractor chains and are most vulnerable to cash flow issues or delivering services but not receiving the agreed payment. The employers' association maintains that they seek to propose and influence regulatory measures that will guarantee everyone a full payment for fully delivered work.³³ This employers' association's rationale has further crystalized after 2014 when the construction sector was shaken by about 500 company restructurings, including two large companies.³⁴ Especially the case of Váhostav, one of Slovakia's largest construction companies, enjoyed large media coverage and included public protests of self-employed upon the court's decision that Váhostav only needs to cover 16% of its expenditures including employee wages and payments for work done by self-employed.

Resulting from the above rationale, the approaches of both IOZ and ZSPS vis-à-vis precarious forms of work is inclusive, with an attempt to reduce the precarious dimensions in self-employment, while keeping the required flexibility. In other words, realizing that flexibility is a key factor for construction production and therefore an elimination of precarious forms of work is unlikely, both unions and employers at the sector level focus on reduction of precarious elements in self-employment and in employment under the flexikonto framework.

The solvency of construction firms, contractual commitments, vocational training, health and safety concerns of the self-employed and a stricter regulation of self-employment in construction (including public procurement) are the most important issues addressed in the (joint) social partner initiatives. These concerns arise from several recent accidents with fatal consequences at

³³ Source: Interview CON2 26.10.2015.

³⁴ Ibid.

construction sites (e.g., a bridge construction in Northern Slovakia in 2013), which forced the social partners to address issues of responsibility for working conditions at the workplace, and responsibility for the quality of services delivered if a large part of the construction task is outsourced to self-employed.

What instruments have social partners implemented taken to address the above issues? First and most importantly, both the employers and trade unions invest their efforts in shaping legislation. Upon a joint initiative, they lobby for the amendment of the Construction Act to include provisions on the hierarchy of responsibility on construction sites. Related to this issue, employers attempt to elaborate rules on payment guarantees to self-employed and eliminating unfair competition that often arises due to lacking capital of construction companies. To address this issue, employers engage in legislative proposals of the Business Code to adopt stricter payment conditions in supplier relationships. This initiative also sets a target to increase the transparency in payments in long supply chains and outsourcing chains in the construction sector.

The legislative action in health and safety issues and payment systems is closely related to another initiative of the social partners - to increase the transparency in public procurement processes. Both the unions and employers assign high priority to this goal, in order to eliminate dumping prices and unfair competition. Public procurement is viewed as the major source of construction activities in Slovakia; and ZSPS and IOZ support and undertake joint legislative action through the tripartite council, the Industry Bipartite Council (*Priemyselná bipartita*) and through direct political interactions on the Act on Public Procurement and the proposed amendment to the Construction Act. The social partners were disappointed that the amended Construction Act including their requirements did not pass a parliamentary vote in late 2015. Besides the general task of improving transparency, employers lobby against the current race to the bottom in price competition. Their action targets predominantly the current government (consultation) and political parties (information) due to upcoming elections in Spring 2016. In other words, stricter controls of safety regulations and the implementation of certain standards in employment conditions should be incorporated in the legislation. The president of the employers' association ZSPS explains that

“... increased transparency is necessary to avoid that some kind of an entrepreneur comes here and says I will do it cheaper, for a dumping price and you should not care how. Then there will be ‘Gastarbeiter’ without helmets and [proper work clothes]. ...The result then is uncertainty about the quality, and the second result is that some costs that should have been paid have not been paid. The investor is pretending he does not see this. He should see that he has paid for something [...], he cannot get it cheaper when there are exact norms that helmets are obligatory.”³⁵

³⁵ Source: interview CON2, 17.9.2014.

In addition to promoting transparency while halting the low-road competition without working standards in public procurement, the IOZ union pushed in its legislative efforts a requirement that construction companies demonstrate a certain percentage of own employees (instead of subcontracting self-employed) in public procurement contracts. Unions believe this could facilitate a turn in the recent trend that self-employment crowds out standard employment. The IOZ argues that this step would not only motivate employers to revert to standard employment relationships, but would also improve the above-mentioned hierarchy of responsibility and quality in the construction business.

Finally, both employers and trade unions view that education and vocational training relevant for the construction sector should undergo major reforms and improvements. Employers are already actively engaging in interaction with secondary and vocational schools to find effective ways how to better connect education with company-specific skills and experience. In addition, both employers and trade unions support the proposal that licensing for the self-employed in construction should undergo a stricter formal proof of skills (e.g., through a relevant education in the field). This represents a move from between two institutionalized categories of self-employment licensing in the Slovak Republic: from “unconditioned entrepreneurial licenses” (*voľné živnosti*) to “conditioned entrepreneurial licenses” (*viazané živnosti*).

2.2.1.5 Conclusions

The construction sector, extensively affected by a downturn in post-crisis years, found its own way through alternative, or precarious employment forms. While initially self-employment has been crowding out standard employment contracts, in the last two years an increased use of flexikonto in regular employment helped to reverse this trend. Self-employment and flexikonto are thus currently the two most important forms of precarious work in construction. Trade unions would certainly prefer to see more standard employment relationships, partly because of a higher base for trade union membership. At the same time, they admit that seasonality and flexibility are inherent features of the construction sector and therefore self-employment is unavoidable. Rather than attempting to eliminate self-employment, trade unions joined forces with employers in several legislative initiatives to improve the working conditions of the self-employed. The *rationale* behind such union action is reaching equality in the quality of work between different work forms; while the rationale for employers' action is grounded in moral/regulatory considerations to eliminate unfair practices (also vis-à-vis the self-employed). Both employers and unions adopted an inclusive *approach* vis-à-vis precarious workers. To address the needs of precarious workers, social partner efforts include efforts to increase transparency in public procurement, balancing the share of regular employees and self-employed and/or suppliers of applicants in public procurement, improve health and safety regulations for construction workers and introduce legal guarantees of payments of the work of subcontracted self-employed. The

dominant *instruments* for social partner action thus include legislative efforts through consultations with the current government and political lobbying vis-à-vis political parties.

Implications of union and employer approaches to addressing precarious work in construction do suggest a shift from retention to reduction of such forms of work. This does not happen directly through a change in formal employment statuses, but through the elimination of dimensions in precariousness (especially pay and job security) in workers with flexikonto and in the self-employed. Moreover, from a procedural perspective, social partner initiatives in the construction sector demonstrate tangible results of established long-term relationships and institutionalized bargaining procedures, which help maintaining a constructive social dialogue and coordinated collective bargaining in addition to regulation of working conditions through legislation.

2. 2. 2 Healthcare

2. 2. 2. 1 Economic developments and employment trends in healthcare/hospitals

The healthcare sector has been exposed to major reforms in the past 15 years, which aimed at strengthening individual responsibility, introduction of market principles and a regulated competition. From the perspective of work and working conditions, the most important change concerned an organizational decentralization and corporatization of selected hospitals (Kahancová and Szabó 2015). This process started with ownership transformation of smaller public hospitals (so-called regional hospitals) in mid 2000s but did not continue with corporatization of large public hospitals (including university hospitals) after governments' decision (2006-2010), trade union pressures and the public discourse related to corporatization revival after 2011. In result, full marketization of healthcare was not completed, and the halfway liberalisation reinforced variation in organizational forms of public hospitals and their access to public finances. Large university hospitals thus enjoy better access to finances in case of debt accumulation, while smaller hospitals were transformed into public corporations without bailout possibilities by the state. The state no longer bears bailout responsibility for regional hospitals. In result, regional hospitals face hard budget constraints while their income from health insurance companies is strictly regulated at the central level. In the last few years, a number of regional hospitals was outsourced (rented, not privatized) to private providers, especially to the financial group Penta Investments, which gradually built up an important say in the Slovak healthcare system (through hospital operation, ownership of one of the three health insurance companies, ownership of a chain of pharmacies).

The different access to public finances also brought important consequences for working conditions and opened space for the emergence of precarious work in hospitals. First, the gap in working conditions and wages between large state-owned university hospitals and the regional

hospitals was increasing despite the average increase of overall wages.³⁶ Second, the slower wage growth and limited perspectives for improved working conditions in the regional hospitals fuelled migration of nurses and care personnel to better paying employers in Slovakia and abroad. Finally, regional hospitals with greater budgetary constraints experienced shortages of health personnel, which had consequences for the quality of care but also employee satisfaction (Kaminska and Kahancová 2011).

Despite the above developments, hospital employment is relatively stable, without great exposure to dismissals and the need for employment guarantees and employability measures. Eurostat data show a slight decline in the number of nurses and midwives in the post-crisis period (see Table 12). However, the Slovak NCZI data show employment growth between 2013 and 2014; namely an increase in nurses (31,166 in 2014), doctors (18,574), pharmaceutical workers (3,644) and healthcare assistants (2,213).³⁷

Table 12 Employed doctors, nurses and midwives in Slovak healthcare, 2007-2014.

Year	2007	2008	2009	2010	2011	2012	2013	2014
Doctors	16,999	18,121	17,798	18,110	17,849	18,193	18,355	:
Nurses and midwives	35,699	35,539	34,477	34,619	33,880	33,243	32,903	:

Source: Eurostat.

Besides hospital corporatization and corruption in Slovak healthcare, the most debated issues is the wage growth. Similar to union action in Czechia, in 2011, the trade union of medical doctors initiated a protest action of mass resignations, claiming significant wage rises. Doctors received legislatively guaranteed wage rises, which affected average wages in healthcare (see Table 13). In 2012, nurses launched a similar action with wide ranging consequences for their working conditions and precariousness. The imposed wage rises without the income side secured from public funds pressurized especially the smaller hospitals in their efforts to seek efficient service provision.³⁸ Such employer responses fuelled changes in working conditions, contracts and working time organization for various occupational groups, but most importantly for nurses. The dissatisfaction of nurses peaked in 2015 after passing the new law on remuneration of healthcare employees (doctors excluded), which attempts to harmonize wages across different types of hospitals (see Table 14). Because of its relevance for precariousness and the depth of the action on the side of nurses, the analysis of social partner strategies in healthcare focuses on this case in more detail (see section 2.2.2.4 below).

³⁶ Source: Statistics of the National Centre for Health Information (*Národné centrum zdravotníckych informácií, NCZI*).

³⁷ Source: SME, <http://domov.sme.sk/c/20069928/v-zdravotnictve-pracovalo-v-roku-2014-viac-ludi-ako-v-roku-2013.html#ixzz3wB46uw1F>, data for 2014.

³⁸ Source: interview HEALTH5, 11.9.2014.

Table 13 Average wages in public healthcare

	2009	2011	2012	2013
Average wage in public healthcare	765 EUR	812 EUR	925 EUR	958 EUR

Source: SOZZaSS calculations using the statistics of the National Centre for Healthcare Information (*Národné centrum zdravotníckych informácií*).

Table 14 Average wages for selected healthcare professionals according to hospital ownership, first half of 2015 compared to the legislative wage proposal for 2016

	Nominal gross monthly wages, first half of 2015						New Act on remuneration (from February 2016)		
	Avg. wage EUR	University hospitals	VUC hospitals	Joint stock hospitals	Limited companies	Non-profit	Base	With certificate	With specialisation
Doctors	1,408	1,409	1,329	1,467	1,483	1,365	n/a	n/a	n/a
Nurses	668	706	563	679	556	559	695	729	824
Midwives	652	721	553	609	606	554	695	729	824

Source: SOZZaSS calculations using the statistics of the National Centre for Healthcare Information (*Národné centrum zdravotníckych informácií*).

University hospitals – hospitals directly subordinated to central government (Ministry of Healthcare)

VUC hospitals – public hospitals owned and operated by higher territorial administrative units (local government)

Joint stock hospitals – hospitals with ownership form of joint stock company, 100% public ownership

Limited companies – hospitals with ownership in form of a Ltd. company, 100% public ownership

Non-profit – public hospitals with a formal status of a non-profit organization

2.2.2.2 Forms of precarious work

The standard employment pattern in Slovak hospitals is working under full-time employment contracts.³⁹ Shortages of medical staff help maintaining full-time employment contracts and the little exposure of hospital employees to work insecurity. Typical precarious employment forms, including temporary agency work, bogus self-employment, fixed-term work or part-time work, exist in Slovak hospitals only to some limited extent (see Table 15). However, while hospitals prioritized the stabilization of employment and the quality of healthcare provision, corporatization, differentiation in pay between different types of hospitals and the legislative stipulations on wage growth of selected professions did create some space for the rise of precariousness. These emerged in consequence of several factors. First, hospital managements seek more flexibility and efficiency in order to decrease hospital debts and to cover staff shortages through overtime hours of existing staff. Second, medical professionals, mostly doctors, seek additional contracts besides their full-time contract to gain better access to lifelong education, skill development using various equipment and experience with different kinds of patients.

³⁹ Source: interviews HEALTH1, HEALTH2, HEALTH3, HEALTH5.

Based on evidence summarized in Table 15, we conclude that job security, social security and employee voice are reasonably established in hospital care, and do not suggest a major trend towards exposure to precariousness. While job security and social security are factors of external employment flexibility (Atkinson 1984), we argue that in healthcare/hospitals exposure to precarization originates in internal forms of flexibility. These relate to working time, work organization and pay. In other words, within stable full-time employment positions with high social security, some occupational groups become increasingly vulnerable to work reorganization, pay decreases or pay differentiation, lose access to lifelong learning and training, or feel discriminated against in pay regulation. While these outcomes often emerge as consequence of policy changes, the recent complex case of nurses' pay rise (later abandoned), subsequent employer pressures for changes in nurses' contracts and the recently renewed nurses' resignation campaign resulted from the action of social partners. While nurses as such cannot be considered as a precarious occupational group, recent developments suggest precarization of some crucial aspects of their working conditions, namely, working time, pay and work organization. These changes increase the vulnerability of nurses to precariousness and shape their decision to stay or quit their jobs in Slovak hospitals. Given the shortages of skilled personnel that Slovak hospitals (Kaminska and Kahancova 2011), and the decreasing number of young nurses entering the profession each year⁴⁰, employment conditions of nurses (especially in the regional hospitals) remain among the most debated issues in Slovak healthcare. The reason why nurses' pay has raised extensive attention of policy makers, media, the public and social partners include two important factors:

- shortages of nurses, with direct implications for the quality of provided healthcare⁴¹
- nurses constitute the largest occupational group within healthcare, therefore any wage increases significantly raise the budgetary constraints on the state and employers.
- Although nurses followed the strategy of doctors (organizing a resignation campaign) to achieve satisfactory wage growth, they do not enjoy a comparably strong bargaining position to doctors.

⁴⁰ Source: statistics of the Chamber of Nurses and Midwives, www.sksapa.sk

⁴¹ According to OECD statistics, the average number of nurses per 1,000 individuals is 8.8. In Slovakia, OECD reports 5.9 nurses for 1,000 citizens. Hospitals claim the number of nurses is satisfactory, but trade unions point to the fact that this is reached by large overtime hours and burnout syndromes. This has implications for the quality of service provided to patients. Source: PRAVDA, 12.1.2014, <http://spravy.pravda.sk/domace/clanok/304980-nemocnice-tvrdia-ze-viac-sestier-nepotrebuju/> [accessed 20.1.2016].

Table 15 Hospital employment and precariousness

Quality of working conditions						
	Incidence	Wages	Working time	Job security	Social security	Voice
Full-time open-ended contract	Most common employment form in hospitals, especially for nurses and other care personnel.	Collective wage regulation – constant issue of disputes Doctors recent legislative rises guarantee acceptable wage levels; Nurses – unsatisfied with wage regulation/levels Other medical staff – low wages, legislative rises from 2016	Issue of employer-unions-government dispute, High overtimes (also undeclared overtime); Nurses protest against legislative regulation of shiftwork and overtime payments	High, market driven (staff shortages in hospitals)	High, in accordance with legal stipulation Some entitlements only after 2 years of work (e.g. unemployment benefit)	Relatively high, especially for doctors, less for other occupations (reasonable level of organization, high bargaining coverage) Recent changes in some occupation groups – e.g. doctors and nurses excluded from bargaining coverage on wages
Fixed-term and part-time contracts	Fixed-term contracts common upon job entry for the first 1-2 years (both doctors and nurses) Part-time contracts: medical doctors often have several part-time contracts (thanks to high bargaining power)*	Collective wage regulation – constant issue of disputes Doctors recent legislative rises guarantee acceptable wage levels; Nurses – unsatisfied with wage regulation/levels Other medical staff – low wages, legislative rises from 2016	Issue of dispute, high overtimes (also undeclared overtime); nurses protest against legislative regulation of shiftwork and overtime payments	High, market driven (staff shortages in hospitals)	High, in accordance with legal stipulation Some entitlements only after 2 years of work (e.g. unemployment benefit)	Relatively high, especially for doctors, less for other occupations (reasonable level of organization, high bargaining coverage) Recent changes in some occupation groups – e.g. doctors and nurses excluded from bargaining coverage on wages
Work agreement contract	Common especially among medical doctors, some incidence among nurses. Incidence depends on particular hospitals Work agreements are often voluntary, employers accept this choice	Competitive (especially for doctors and private healthcare providers); if agreements used to substitute overtime payments then wages precarious and below legal standards	Working time individually negotiates between employer and employee; general challenge: too many contracts per person general uncontrolled overtime, impact on the quality of healthcare and patient treatment	Various degrees: – high; market driven (in case of staff shortages - inpatient care); exposure to lower security if hospital seeking high flexibility, e.g. when restructuring, concerns mainly outpatient care	Comparable to a part-time employment relationship, in accordance with legal stipulation after the 2013 legislative changes (highly precarious with low social security prior to 2013)	As above; Unions do not explicitly focus on agreement contractors, but hospital-level collective agreements are extended to all employees. Some limitations apply to agreement contractors, staff shortages account for their reasonable voice

Source: interviews HEALTH1 – HEALTH5, Kahancová (2010 and 2011), Kahancová and Sedláková (2014), Bulla et al. (2014)

* Source: HEALTH6 interview, 3.7.2014

2. 2. 2. 3 Industrial relations in the hospital sector

During the reform years, industrial relations in healthcare have stabilized at the sector level, with reasonable levels of bargaining coverage and union and employer membership in sector-level interest representation organizations (see Table 16).

Table 16 Industrial relations in public healthcare (hospitals)

Trade unions	Slovenský odborový zväz zdravotníctva a sociálnych služieb (SOZZaSS) Lekárske odborové združenie (LOZ) Odborové združenie sestier a pôrodných asistentiek (OZSaPA)
Estimated trade union density in the hospital subsector	51% (2006)
Trade unions and density in healthcare*	SOZZaSS: 46.5% (2006) LOZ: 4.2% (2006) OZSaPA around 2,000 members (2014), estimated density n/a
Employers' associations and members in healthcare	Asociácia štátnych nemocníc Slovenskej republiky (ASN SR), 24 members (2014) Asociácia nemocníc Slovenska (ANS), 57 members (2014)
Dominant bargaining level for collective agreements	Sectoral/multi-employer level (ASN SR and ANS separately) and establishment level Sectoral tripartism with the Ministry of Healthcare – without collective agreements
Sectoral bargaining coverage**	95% (2006)

Source: Czírja (2009), interviews HEALTH1 – HEALTH5

* Estimated density of particular unions within the healthcare sector.

** Percentage of employees in the sector covered by a multi-employer (higher-level) collective agreement

Initially covered by the public services sector, healthcare developed its own bargaining structure after 2006. This structure shows stability in multi-employer bargaining procedures; however, recently undergoes fragmentation on the side of the trade unions. Two trade union organizations, one representing broad employee interests (SOZZaSS) and one representing medical doctors (LOZ) saw the rise of a new trade union of nurses and midwives (OZSaPA) in 2012. While SOZZaSS enjoys a strong bargaining position, LOZ and OZSaPA are more active also in new forms of action including public protests, strikes and resignation campaigns in order to influence hospital working conditions. On the employers' side, two employers' associations represent hospitals (ASN SR for large state-owned hospitals and ANS for regional hospitals). Each organization concludes separate multi-employer agreements with SOZZaSS and LOZ. At the hospital level, bargaining takes place with unions established in particular hospitals. While bargaining is relevant and firmly established, the largest occupational groups – doctors and nurses – have been excluded from bargaining coverage of multi-employer agreements on wage rises after their wage regulation was taken up in legal regulation after protests, lobbying and resignation campaigns by LOZ (2011) and OZSaPA (2012 and 2015-16). This suggests legislation to crowd out the role of bargaining. The latest development when the parliament

adopted a new Act on remuneration of healthcare personnel in late 2015 further reinforces this trend.

2. 2. 2. 4 Trade union and employers' approaches, actions, best practices

The nurses' changing working conditions, to a large extent occurring upon trade union initiatives since 2012, are the most important development in healthcare/hospitals from the perspective of precarious work. While trade unions actively contributed to shifting regulation of wage setting away from collective bargaining to more state regulation through legislation, at the same time nurses' organizations, including the chamber as well as the trade union, engage in harsh protests to voice their dissatisfaction with the recently adopted legislation. The approaches and actions of social partners in the nurses' wage rise campaign were analysed in detail by Kahancová and Martišková (2015). Below we summarize the main findings of this earlier study and include most recent evidence on last actions of nurses in response to growing precariousness – a resignation campaign launched from December 2015.

The nurses' action derived from their long-existing dissatisfaction with working conditions – especially wages and the high extent of overtime work in hospitals. In the eyes of the OZSaPA union, nurses are burned out, demotivated, often leave to work abroad, and dissatisfied with the fact that their payment entitlements for overtime and work over weekends and holidays do not correspond to regulations applicable to doctors. While doctors are paid extra for working in non-standard hours, nurses are not because their wage regulation derives from a continuous 3-shift working time organization. The largest source of dissatisfaction however remains the perceived low wage levels, which pushed the nurses to take action. Their action was motivated by a successful resignation campaign of doctors in late 2011, when medical doctors organized by the LOZ trade union united for an open campaign on quitting hospital jobs if union demands are not met by the center-right government.⁴² Wage increases and a halt to hospital corporatization of large state-operated university hospitals were among the central demands of doctors. At the doorstep of a collapse of the hospital system, the government was pushed against the wall and agreed to gradual wage increases. The goal was to raise doctors' wage levels to exceed the average wage in the economy up to 2.3 times in the period of two years since 2012.

Following this action, nurses and midwives led predominantly by the Chamber of Nurses and Midwives (SKSaPA) launched their own campaign pointing at degrading working conditions and the precarization of their jobs through lack of wage increase, missing overtime payments and high workload due to staff shortages. Unlike doctors, the nurses initially opted for more moderate instruments of action, including memoranda, petitions, and negotiations with the government.

⁴² The summary of the wide media coverage on the campaign can be found at <http://tema.aktuality.sk/vypovede-lekarov/> [accessed 15.9.2014].

Second, the nurses' action was accompanied by a birth of a new trade union OZSaPA in 2012 after feeling insufficiently represented by the dominant trade union SOZZaSS. SOZZaSS still maintains the largest membership and occupational coverage in the healthcare sector. Given the different opinions and preferences for selected instruments of SOZZaSS and OZSaPA, the birth of a new union raised union fragmentation and undermined cooperation between SOZZaSS, OZSaPA and LOZ. The campaign of nurses reached a victory in form of legally stipulated wage increases for nurses and midwives in all public and private hospitals and other healthcare providers. Act No. 62/2012, enforced from April 1, 2012, specified wage tariffs according to education and years of experience.

The wage campaign of nurses and midwives launched a chain of reactions on the side of employers, trade unions and the state, which had further consequences for precarization of working conditions and bargaining coverage in Slovak hospitals. Initiatives of sector-level hospital associations remained limited to a small number of public statements and press releases by the ANS criticizing the new law because of hard budget constraints. Otherwise employers responded to the new legislation mostly through individual adaptation strategies. Some hospitals complied with the new wage regulation, but many – especially smaller hospitals - sought alternatives to this enormous cost increase (coupled with the cost increase on doctors' salaries). Adjustments of nurses' contracts were often involuntary and brought decreased working time, work re-allocation, splitting contracts between patient-oriented and administrative tasks, and similar.⁴³ This process attracted large media attention and heated debates focusing on nurses' pay, vulnerability of their working conditions and little power vis-à-vis employers. In large hospitals, increased labour costs, and thus the protection of nurses from growing precariousness, came at a price of increasing hospital debt.⁴⁴ The sectoral employers' association ASN SR did criticize the government for radically interfering into the hospital remuneration system, but did not launch any other official action voicing its dissatisfaction with the new law.

Next to employers' responses, the campaign for wage rises of nurses and midwives saw a crash of solidarity between various occupational groups in healthcare. The Chamber of Medical Doctors, closely involved in the doctors' wage rises campaign in late 2011, filed a constitutional court case on the unconstitutionality of Act No. 62/2012 because positively discriminating nurses and midwives in their wage claims against other healthcare personnel. In consequence, the Constitutional Court of the Slovak Republic ruled Act No. 62/2012 unconstitutional in July 2012, only three months after the act's enforcement. Only three months after the above turbulences caused by the new Law's validity, employers, their associations, and trade unions again faced the challenge of uncertainty in seeking adaptation strategies. Some employers remained generous in maintaining the increased wage levels, while others openly negotiated wage decreases to the original level through hospital-level collective bargaining.

⁴³ Source: *ibid.*, <http://www.pravo-medicina.sk/aktuality/696/mzdove-naroky-zdravotnych-sestier--naozaj-nezmenene> [accessed 16.9.2014],

⁴⁴ Source: interview HEALTH5, 3.7.2014.

While employers did not engage into visible collective action through sector-level employer associations, trade unions came with several sector-level initiatives to decrease the vulnerability of nurses and their exposure to frequent changes in their contracts, wages, working time and work organization. The nurses' trade union OZSaPA launched several campaigns to protect nurses' rights for decent work and wages since 2012. The largest trade union SOZZaSS did not support these actions and focused on traditional bargaining to achieve a 2-4% wage increase for all healthcare workers.⁴⁵

OZSaPA was not satisfied with individualized and decentralized solutions to the post-2012 situation and continued lobbying for new legislation regulating wages in healthcare. After losing trust in bargaining procedures dominated by SOZZaSS, OZSaPA opted for public protests in front of the Government's office in October 2013⁴⁶ and a billboard campaign targeting the prime minister during his candidacy for presidential elections in February-March 2014.⁴⁷ The main goal of OZSaPA was to push for new legislation solving the wage situation of nurses, requesting wage regulation guaranteeing a nurse entering the labor market a wage of 925 EUR (1.15 times the average wage in the economy), with wages proportionally rising with specialization, skills, education and experience up to 2,000 EUR.⁴⁸ Regulation covering all nurses in Slovakia regardless of the healthcare provider is the main concern of trade union efforts, without extensive attention paid to re-installing nurses' bargaining coverage.

After almost three years of negotiations, the government passed a new piece of legislation on healthcare workers' wage regulation to the parliament. Trade unions in general welcomed this step, but remained very critical that the legislation incorporated only one of their major criticisms, namely, that the regulation will apply to all healthcare providers (not just the large hospitals directly subordinated to the Ministry of Healthcare). Furthermore, OZSaPA and SKSaPA requested that remuneration should reflect skills/education, years of experience, and should be calculated by indexes derived from wage developments in the economy.⁴⁹ Failing to incorporate these comments, in late 2015 the government finally adopted an amendment to the Act on Healthcare Service Providers (Act No. 578/2004 Coll.) that sets base wages for particular occupational groups.⁵⁰ Nurses' representatives found this regulation unacceptable, arguing that it will even lead to wage decreases (or only minimum increases) in some hospitals. Further uncertainty derives from the government's promise that 55 millions EUR are available in the state budget to cover the extra wage expenditures (higher wage increases apply to hospitals and

⁴⁵ However, because doctors' and nurses' wage setting was shifted to the legislation, collectively agreed wage increases no longer apply to them.

⁴⁶ Source: *ibid.* and Pluska 2.10.2013, <http://www.pluska.sk/spravy/z-domova/zdravotne-sestry-stanuju-prinutia-vladu-k-zvyseniu-platov.html> [accessed 16.9.2014].

⁴⁷ Source: *Webnoviny*, 4.2.2014, <http://www.webnoviny.sk/spravy/clanok/786211-sestry-cez-bilbordy-vyzyvaju-roberta-fica-na-plnenie-slubov/> [accessed 16.9.2014].

⁴⁸ Source: interviews HEALTH3, HEALTH4.

⁴⁹ Source: SKSaPA website, in <http://www.sksapa.sk/aktuality-a-oznamy/pripomienky-sk-sapa-k-navrhu-zakona-o-spolocnom-odmenovani-zdravotnikov.html> [accessed 26.1.2016].

⁵⁰ <http://spravy.pravda.sk/ekonomika/clanok/367748-zdravotnici-maju-byt-odmenovani-rovnako-sukromni-i-statni/> [accessed 26.1.2016].

social care homes with previously lower wages than in large hospitals). Opponents find this sum not high enough to guarantee a full coverage of extra expenditures.

The adoption of the new regulation again provoked protest action on the side of nurses, involving both OZSaPA and SKSaPA with support of LOZ (but not the largest union SOZZaSS). In December 2015, nurses launched a resignation campaign across Slovak hospitals, aiming to push the government and parliament to revise the adopted legislation in the light of their requests. Initially over 1,000 nurses (2,3% of all nurses in Slovakia) joined the resignation campaign, which caused shortages and reorganizations in selected hospitals where a high number of nurses decided to quit their job. The most notable example is the hospital in Prešov, where initially 382 nurses declared to quit their job from 1 February 2016. While OZSaPA and SKSaPA continued to actively campaign for legislative changes and at the same time motivated further nurses to join the resignation campaign, the critical mass of resignations was not reached and the nurses failed to achieve a change. In late January 2016, the Minister of healthcare declared that 594 nurses recalled their resignation, most of them from the Prešov hospital.⁵¹ This development further undermined the power of organized protest on the side of nurses. Hospitals found individual solutions to cope with resignations, some restructuring departments or hiring new nurses. The total number of newly hired nurses reached 161.⁵²

The representatives of nurses claimed that at the end of January still 724 nurses remained in notice periods. Nurses agreed to compromise on their initial requirements, including:

- the applicability of legislation on remuneration of healthcare personnel to all healthcare personnel
- increased coefficients that are used to calculate base wages
- base wage increases reflecting experience (a higher coefficient for each three years of experience)⁵³

Both hospital associations remained silent in media and debates on the nurses' campaign, which clearly shifted to address the adversarial relations between nurses and the government, rather than the nurses' organizations and employers. Despite the resignation campaign occurring shortly before new parliamentary elections, when political parties are most vulnerable, it is considered a failure without achieving the elimination of precariousness, especially its low wage dimension, that nurses fought for since 2011. The nurses' campaign ended through a joint agreement with the government and governmental guarantees to re-employ all nurses in their previous working positions. Employers criticized this step of the government, because it created complications and

⁵¹ Source: PRAVDA, <http://spravy.pravda.sk/domace/clanok/381243-vypoved-stiahlo-podla-rezortu-zdravotnictva-uz-594-sestier/> [accessed 27.1.2016].

⁵² Ibid.

⁵³ Source: <http://vzdravotnictve.webnoviny.sk/premier-prijal-sestry/#sthash.lmTHzW9x.dpuf> [accessed 29.1.2016]

extra costs on the side of hospitals that meanwhile hired new nurses. The hospital associations were even considering filing this case to the constitutional court.⁵⁴

2. 2. 2. 5 Conclusions

The healthcare sector, especially hospitals, saw growing dissatisfaction with working conditions, centred around pressures for wage increases, in the post-crisis period. Specific forms of precarious employment contracts are marginal in healthcare (e.g., part-time contracts or precarious work agreements). However, besides the pre-existing low wages, high workload and staff shortages especially in smaller hospitals, an increasing exposure to precarization gradually developed as hospitals responded to trade union campaigns for wage increases. Evidence shows growing precariousness in various internal aspects of working conditions, most notably, wage demands that brought sector-wide consequences for changing the types of contracts, increasing uncertainty about jobs, wages, and rising vulnerability of nurses' pay and work organization to frequent legislative changes and to individual employer responses. The most notable case of such developments applies to the largest employee category in hospitals – nurses and midwives. The analysis above presented the nurses' wage increase campaigns since 2011, which, unlike the doctors' campaign in 2011, did not bring the desired results in eliminating exposure to precariousness.

The nurses' union OZSaPA closely cooperated with the professional association SKSaPA to engage in protest actions and recently in a nation-wide resignation campaign. The *rationale* behind such union action is reaching efficiency in healthcare through better service provision, as well as equality in decent remuneration across various types of hospitals (university, regional, private and social care homes). Since these actions targeted the government and not employers directly, hospitals' employer associations did not engage in a coordinated response. The rationale behind individual employers' responses derived especially from economic and organizational considerations when employers are pushed to a cost-efficient operation of hospitals, often requiring organizational restructuring. While unions adopted an inclusive *approach* vis-à-vis nurses in precarious employment situation, treating all nurses' wage demands together, the approach of employers cannot be clearly identified. Employers did not explicitly exclude or separate precarious nurses from their strategies and addressed the wage issue globally for all nurses. At the same time, their individual responses facilitated separation and exclusion of nurses into more precarious forms of work.

⁵⁴ Source: <http://domov.sme.sk/c/20087597/asociacia-nemocnic-zvazi-podanie-poziadaviek-sestier-na-ustavnom-sude.html> [accessed 5.2.2016].

The dominant *instruments* in trade union action included a range of activities, from information campaigns to raise awareness of their situation among nurses, through seeking public support through media appearance, debates and protests in public space, negotiations and political lobbying targeting the government to mobilization of nurses for the resignation campaign. Interestingly, these instruments were used and perceived as more effective than collective bargaining, which did not play a prominent role in the wage increase campaign. Instruments on the side of employers remained limited to responsive action on commenting legislation, and engagement in collective bargaining with the SOZZaSS union that refrained from supporting the more militant actions of the other healthcare unions.

Finally, the *implications* of union approaches to addressing precarious work in healthcare suggest a clear preference for the elimination of precarious work through reaching decent and balanced working conditions for all healthcare workers including nurses across the whole country and all types of hospitals. However, despite aiming at elimination of precariousness, action of trade unions and employers contributed to decreasing job stability, (forced) changes to work organization and employment contracts, exclusion from collective bargaining coverage, and growing vulnerability of nurses as an occupational group within healthcare profession.

Employers would also prefer elimination of precarious work, however, due to their cost pressures and limited access to public funding, their actions actually implied expansion in precarious work in the recent years.

Further relevant conclusions in healthcare imply that the organized and influential industrial relations structure in healthcare, with established multi-employer bargaining, has suffered under the campaign for improving nurses' working conditions. While still relevant, the sustainability of sector-level bargaining is questionable after the bargaining coverage of the most important occupational groups in healthcare (doctors and nurses) has been squeezed out by legislation.

2. 2. 3 Metal

2. 2. 3. 1 Economic position and employment trends

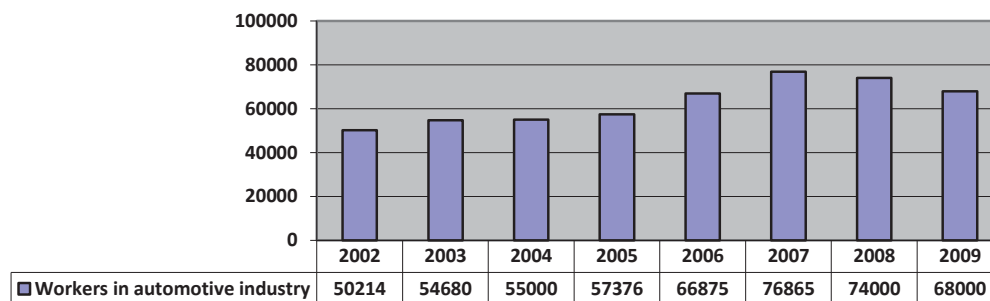
The metal sector belongs to the most important economic sectors in Slovakia. The automotive industry (SK NACE 29 – Production of motor vehicles, part of the broader category Mechanical Engineering) is the most important division of the metal sector in the Slovak economy and labour market. Automotive production experienced rapid growth during the 1990s and the 2000s. However, because of its highly export-oriented character, the sector is vulnerable to changes in global economic cycles, market demand and economic downturns. As an immediate effect of the economic crisis, production dropped slightly (by 4,208 mil. EUR) in 2009 compared to the previous year (Pavlínek 2015). Other divisions of the metal industry directly or indirectly linked

to automotive production also faced a decline in production and employment after the crisis. After a quick recovery, in 2010 automotive production accounted for 27.5 per cent of total industrial revenues and 74 per cent of total manufacturing revenues in Slovakia (ibid.). With 540 thousands of automobiles produced per year, in the second quarter of 2015 Slovakia became the world’s largest producer of motor vehicles per capita (OICA database 2016).

Production of motor vehicles in Slovakia is represented in particular by three large automotive producers: Volkswagen Slovakia (established in Slovakia since 1991), PSA Peugeot Citroën and KIA Motors (both established in Slovakia since 2006). Since 1991 Volkswagen has become one of the major manufacturing corporations with a leading position in Slovak export and the highest number of employees within the automobile industry. This important investment brought with itself also the demand for component suppliers for the automotive industry, attracting several renowned international suppliers to establish their plants in Slovakia.

Employment in the automotive sector was growing until the crisis, then declined but stabilized relatively fast in the early post-crisis years. The share of automotive industry employment in the total economy reached 2.7 per cent in 2014.⁵⁵ Figure 6 and Table 17 show that the crisis did have a modest effect on employment, but employment has stabilized relatively early in the post-crisis period.

Figure 6 Employment in automotive industry before and during the crisis



Source: Automotive Industry Association of the Slovak Republic ZAP SR.

Table 17 Employment in the automotive sector (yearly averages), in thousands, 2008 – 2014*

	2008	2009	2010	2011	2012	2013	2014
Thousands of employees	80.0	66.9	65.3	86.1	93.3	89.4	90.3

* The data cover NACE Rev. 2 Division 29 on motor vehicles, trailers and semi-trailers.

This division includes the manufacture of motor vehicles for transporting passengers or freight, the manufacture of trailers and semi-trailers, and the manufacture of various parts and accessories.⁵⁶ Employment data include all forms

⁵⁵ Eurostat.

⁵⁶ http://ec.europa.eu/eurostat/statistics-explained/index.php/Manufacture_of_motor_vehicles,_trailers_and_semi-trailers_statistics_-_NACE_Rev_2

of employment including part-time workers, seasonal workers, persons on strike or on short-term leave. Temporary agency workers, volunteers and workers on long-term leave are excluded.
Source: Eurostat (2016).

Table 18 Average employment and wage in the automotive sector – quarterly data

	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
Average employment	61,952	60,209	60,486	61,162	62,417	64,096
Average wage (EUR)	1,027.49	1,236.6	1,082.34	1,205.85	1,060.98	1,280.29

Source: ŠÚSR

Average wage in the industry as a whole reached 992 EUR in 2014, with a gender pay gap of 30 per cent. The variable part of the wage is around 20 per cent, another 12 per cent are wage compensations (ŠÚSR, 2014). In the automotive industry, average wages substantially increase the average wage in industry as well as the average wage in the Slovak economy (see Table 18).

2. 2. 3. 2 Forms of precarious work

Since 2008, dimensions of precariousness in the automotive industry evolved most importantly in relation to two flexible employment forms: the use of flexitime accounts (*flexikonto*) and the use of agency workers (see Table 19). Flexitime accounts were first introduced at Volkswagen Slovakia, before becoming of the Labour Code in 2009. However, employer representatives maintain that this first attempt to introduce flexikonto did not truly respond to employers' demands (mainly Volkswagen). Only in 2012-2013 did the legislation reach a stage that employers started extensively using flexikonto.

The idea of *flexikonto* is to involve regular full-time employees in a flexible working account scheme. When production is declining workers work less and still get their basic wage, and later when the production is on its rise, they will work off their negative hours (hours paid for while not working). Trade unions have a co-determination right on flexikonto provisions at the company level, but remain critical about the length of flexikonto. The time duration of flexikonto remains a crucial issue of disagreement between employers and unions. The current legislation stipulates 30 months during which the working hours of the employee have to be cleared in the flexikonto scheme. Unions find this period too long and demand a maximum of 12 months for flexikonto, while employers would prefer to extend the current 30 months to an even longer period.⁵⁷ At the same time, employers argue that as part of sectoral collective bargaining there

⁵⁷ Source: interview CAR3 10.7.2015.

Table 19 Precarious work in the metal sector, focus on the automotive subsector (dominant forms only)

Quality of working conditions						
	Incidence	Wages	Working time	Job security	Social security	Voice
Flexikonto	The most important form of flexibility used in automotive producer firms, pressures for further use of flexikonto e.g. through longer time periods, overlap of several flexitime accounts at the same time. Efforts to extend flexikonto also onto agency workers	Collective wage regulation – tariffs at sector and company level Sectoral regulation extended also companies without membership in employers' associations Flexikonto not as precarious from the wages' perspective	Determined according to employer demand – with trade union co-determination at company level	Long-term job security although flexikonto period by law up to 30 months Employers prefer even higher flexibility through lifelong flexikonto or at least an extension of the current legally stipulated length of flexikonto	Workers in the flexikonto scheme are regular employees, social security contributions by law apply Some entitlements only after 2 years of work (e.g. unemployment benefit)	High (reasonable level of organization, high bargaining coverage) Union co-determination on flexikonto required at the company level; at sector-level employers wanted to introduce the flexikonto possibility without union approval – no success
Temporary agency work	Wide spread and important form of flexibility in metal/automotive, offers high flexibility in hiring and firing, seasonal work, advanced supplier chains;	In the largest car manufacturer (VW Slovakia) equal base wages between TAWs and regular employees. Not the case in smaller/supplier firms. TAWs often abused and paid through non-taxable travel reimbursement forms not subject to social security contributions TAWs no access to the end user's social fund benefits	Depending on assignment; can be standard or abused. If TAWs put on flexikonto - flexikonto can generate uncompensated overtime work (trade union critique); employers claim its mutual benefits for both workers and the company.	Currently TAW assignment limited to 24 months and 4 repetitions with the same end user employer.	Depending on the contract, if TAW not abused all entitlements apply as in case of a regular employment relationship	Institutional voice in formation, unions start to represent TAWs but still their main activities center on core employees with regular contracts

Source: interviews CAR1, CAR2, CAR3, TAW2, TAW3

was an informal agreement between employers and unions to agree to an extension of flexikonto periods up to 48 months.⁵⁸ Employers argue that the innovation cycle is extending to longer time periods with the growing complexity and value added of the Slovak automotive industry's output. Therefore, an alignment of employment flexibility with the product life cycles increases in importance.

While flexikonto has been the most important crisis response tool at Volkswagen, PSA Peugeot Citroën and KIA Motors were more conservative in introducing flexikonto at later period than Volkswagen. KIA Motor only started considering the implementation of flexikonto in 2015.⁵⁹

Unions argue that in long-term flexible working schemes, the transparency to follow whether non-discrimination and wage equality applies is low; and overtime payments do not apply even if workers in fact work overtime hours after their regular working shift. While the impact of flexikonto on the pay dimension of precariousness has not been systematized, it remains one of the key sources of possible inequalities and sources of unpredictability in wages in the otherwise highly organized and regulated sector with detailed tariff regulations.

Further aspects of possible precariousness relate to the continuity and number of subsequent flexikontos. Employers would like to see the possibility of opening more than one flexitime accounts for an employee at the same time, or the overlap of older and more recent accounts. Currently this is legally not stipulated. Another aspect in exposure to precariousness is the application of flexikonto onto agency workers, which is a combination of the two most important forms of flexibility and precarious work forms in the metal/automotive sector. Given the recent legislative changes that introduced stricter regulation of TAW (see section on TAW below), the length of contract for agency workers with an end user employer has been limited to 24 months. Automotive producers would prefer the use of flexikonto also for agency workers, ideally combined with the possibility to hire agency workers only for certain project duration. This practice is currently constrained because of trade unions' co-determination rights on flexikonto. If a trade union does not exist at a specific employer, including a temporary agency, flexikonto should not be used. Some agencies responded to the need of trade union co-determination through the creation of yellow unions or introduction of employee representatives for the purpose of using flexikonto.⁶⁰ However, employer representatives claim that the estimated share of agencies with employee representatives is below 5%.⁶¹

In sum, the metal industry found a response to post-crisis shifts in production demand mainly through two flexible forms of work, namely, the use of flexikonto and TAW. Other forms of flexible contracts remain marginal. While formally employers are satisfied with these of flexibility, there are constant pressures to increase flexibility within these employment forms.

⁵⁸ Source: *ibid.*

⁵⁹ Source: interview CAR3, 10.7.2015

⁶⁰ Source: *ibid.*

⁶¹ Source: interview TAW2, 23.9.2015

This occurs through especially through extensions of balance periods for flexikonto schemes, overlap of several flexikontos at the same time, and application of flexikonto onto TAW. While flexikonto as such is not necessarily precarious, it offers a trade-off between job stability and uncertainty in pay and working time.

2. 2. 3. 3 Industrial relations in the metal sector

A particular long-term development in industrial relations in the metal sector is the increasing role of company-level bargaining and at the same time the sustainability of sector-level wage bargaining. The sector is well organized, with OZ KOVO dominating the trade union landscape and ZSP dominating on the side of employers in terms of membership and bargaining coverage (see Table 20). OZ KOVO had 430 base or company-level organizations (*základné organizácie*) in 2010. Base organizations operate relatively autonomously in company-level bargaining issues, while OZ KOVO participates in sector-level bargaining. In the largest automotive firms, in 2011 unionization rate reached about 75% at Volkswagen, approximately 25% at PSA Peugeot Citroën and 19% at KIA Motors.⁶²

Other important actors in the sector's industrial relations include the **Automotive Industry Association of the Slovak Republic** (*Združenie automobilového priemyslu Slovenskej republiky, ZAP SR*) and the **Slovak Industry Association** (*Zväz priemyslu - ZP*). These are influential organizations in the field of industrial policies, social policies, R&D and education with indirect but relevant influence on collective bargaining in the metal industry.

Currently there are two sector-level agreements in mechanical engineering: between OZ KOVO and ZSP SR, and between ASEP and VSOZ. The agreement between OZ KOVO and ZSP SR includes wage tariffs, covers automotive firms and has been extended to cover also employers not organized in ZSP SR. The last extension took place in November 2015 to apply sectoral wage tariffs and other regulation to the whole sector of mechanical engineering.⁶³ In the immediate aftermath of the crisis, this agreement also included stipulations on maintaining employment of the core workforce while not re-hiring fixed-term workers, agency workers and workers in other forms of non-standard contracts. Thereby sectoral bargaining contributed to labour market segmentation (Kahancová 2013).

⁶² Source: interviews within the FP7 project GUSTO for Volkswagen and PSA Peugeot Citroën (Brngálová and Kahancová 2010). Interview with the base trade union organization at KIA Motors (2016), not part of the PRECARIR project.

⁶³ Source: Podnikajte – website with legal information, <https://www.podnikajte.sk/pravo-a-legislativa/c/2445/category/zakonne-povinnosti-podnikatela/article/kolektivne-zmluvy-2015.xhtml#sthash.OndKk1ow.dpuf> [accessed 9.2.2016].

Table 20 Industrial relations in the metal sector (mechanical engineering, including automotive production)

Trade unions	Odborový zväz KOVO (Trade Union Federation Kovo), OZ KOVO Všeobecný slobodný odborový zväz (General Free Trade Union Association), VSOZ
Estimated trade union density in the metal sector*	OZ KOVO 30% (2010, estimate) VSOZ marginal density, estimates n/a
Employers' associations	Združenie automobilového priemyslu Slovenskej republiky (Automotive Industry Association of the Slovak Republic), ZAP SR, no involvement but strong influence on sectoral bargaining Zväz strojárskoho priemyslu SR (Federation of Mechanical Engineering of the Slovak Republic), ZSP SR, commissioned to bargain on behalf of ZAP SR members Alliance of Industry Federations (Aliancia priemyselných zväzov), no involvement but strong voice at inter-sectoral level vis-à-vis the government (regulation) and trade unions (bargaining) Asociácia strojárskoho a elektrotechnického priemyslu (Association of Mechanical Engineering and Electronics Industry), ASEP, small organization, 6 member companies in metal and electronics
Dominant bargaining level for collective agreements	Sectoral/multi-employer level Company-level
Estimated employers' organization density in the metal sector	ZSP SR 18-20% (2010, estimate) ASEP estimated density marginal
Sectoral bargaining coverage**	15-20% (2010, estimate)

* Total number of members of the trade union in the sector in relation to the number of employees in the sector, as demarcated by the NACE definition

** Ratio of the number of employees covered by any kind of collective agreement to the total number of employees in the sector

Source: interviews CAR1, CAR2 and CAR3, websites of unions and employers' associations, Czírta (2010).

While both the sector and company level bargaining are important for wage setting, there is a lack of coordination between them. The sustainability of this dual bargaining structure is justified for large car manufacturers, because wage tariffs set in company-level collective agreements significantly exceed the tariffs set in the sectoral agreement. In smaller firms, company-level wage setting is more closely influenced by the sectoral tariffs.

2. 2. 3. 4 Trade union and employers' actions, best practices, examples

The current forms of precarious work and their regulation evolved with significant influence of social partners. As already mentioned, flexikonto, the most important tool for flexibility in the car industry (but also used in other industries), has been introduced into the Slovak legislation with significant influence of large automotive firms and their professional association ZAP SR. Recent initiatives of social partners regarding precarious forms of work thus centered around flexikonto in the first place and on regulation of TAW in the second place. As the metal/manufacturing/automotive industries are the most important users of TAW, their initiatives regarding agency work are discussed separately in Section 2.2.5.4. Below we review social partners' initiatives regarding flexikonto and other activities that are exclusive to the metal sector.

Kahancová and Martišková (2011) studied the responses of OZ KOVO to precarious work in the first years after the crisis. By 2011, OZ KOVO was the only sector-level union in Slovakia that elaborated a definition of precarious work, classified types of work considered as precarious and published this document on their website. Compared to the definition/specification of precarious employment for this report, OZ KOVO's specification is broader, counting other types of employment as precarious (shared employment, employment contract in which the Labour Code allows dismissal without specific reasons, employment on the basis of a business contract instead of an employment contract, home work and tele work, work on call). At the same time, OZ KOVO preferred to use the term '*non-standard employment forms*'. Despite union efforts to analyze precariousness, the initial strategy of OZ KOVO was exclusive towards precarious employees. In other words, in the immediate post-crisis years, OZ KOVO did not actively engage in representing workers with non-standard contracts, such as agency workers, self employed or workers with work agreements. Instead, unions focused on maintaining jobs for the core workforce. This attitude contributed to deepening labour market dualization with insiders (workers with permanent contracts) and outsiders (workers in flexible forms of employment). The 2011 interview with OZ KOVO representatives yielded that fighting precarious employment was not the strategic goal of the union, and the union does not engage in particular action to cope with precarious employment (Kahancová and Martišková 2011).

There were several reasons why OZ KOVO's priorities did not comprise responses to precarious employment, especially the weakening membership base, legislative limits to unions' codetermination rights, and the union's focus on stabilizing its position at workplaces and at the sector-level to maintaining own legitimacy. OZ KOVO also reported difficulties with organizing precarious employees, especially agency workers, because they change jobs across sectors frequently to fail to develop a long-term commitment to a particular sector-based trade union. Finally, the skill base is crucial in the metal sector, and the union allocated all its resources to address the interests of skilled regular employees, improving their working conditions and first of all their job security in the aftermath of economic crisis.

In more general terms, during the first post-crisis years OZ KOVO resembled an interest representation organization of insiders, or core skilled workers in the metal sector. This union position was the natural consequence of the interplay between the dual character of work in the metal sector (skilled insiders vs. less skilled outsiders), the post-crisis developments shaping employers' and unions' interests to protect the core skill based pool of workers in large firms, and the unions' limited resources to organize and mobilize all kinds of employees in the metal sector including temporary workers and agency workers.

Since the above developments, the attitude of OZ KOVO towards precarious work has changed and became more inclusive also towards agency workers while also focusing on avoiding precarization of core employees through their exposure to flexikonto. In recent years, both trade unions and employers played an active role in shaping the regulation and use of flexikonto. Their

activities can be divided in two types – first, legislative activities, and second, initiatives via collective bargaining at the sector and company levels.

In terms of legislative influence, the process of introducing flexikonto started with negotiations targeting the government and political parties on behalf of employers in the immediate aftermath of the crisis. Trade unions responses were also not delayed. The timing of social partner responses is closely related to the fact that they have developed long established relations and did not avoid consultation on relevant initiatives on crisis responses despite that their fundamental approaches to the use of flexikonto differed.

Trade unions did not support a high level of flexibility but decided to trade off more job security for flexibility and agreed to the use of flexikonto. At the same time, unions succeeded with the implementation of legislative stipulation on the need of union co-determination in case an employers wants to introduce flexikonto. This stipulation equipped unions with additional power and bargaining resources and became a further tool for trade offs and gentlemen agreements between employers and unions at the company level.

The key dispute between employers and employees has been the length of flexikonto. While employers keep demanding longer periods and even lifelong flexikonto, trade unions wish to keep flexikonto within maximum of 12 months. However, employers claim that in many cases unions silently agreed to longer flexikonto periods, even up to 48 months (the current legal stipulation allows max. 30 months of flexikonto).⁶⁴

Current efforts of employers' associations targeting legislative changes focus on the extension of flexikonto from 30 to 36 months. Next, employers fight for the legal possibility to introduce several subsequent (or overlapping) flexikontos that will copy the product lifecycle in the automotive industry. To strengthen the employers' influence on legislation to facilitate more flexibility through the flexikonto regulation, employers' associations in the automotive industry are members of the Industry Alliance, an umbrella organization for five most important sectors of the Slovak economy. The Alliance is perceived as a powerful organization uniting employers' interests and lobbying efforts for legislative changes.

Besides the legislative efforts, employers have tried to facilitate flexikonto also through the sector-level collective bargaining and introduce a general recommendation for the use of flexikonto into the sectoral collective agreement in mechanical engineering (applicable also to automotive firms and their suppliers). So far, the sectoral agreement does not include particular stipulations on flexikonto except suggesting that flexikonto shall be determined in company-level collective agreements. With introducing flexikonto into the sectoral agreement, employers maintain that the use of this framework could be extended with less barriers, e.g., also in employers without directly established trade unions and in subsectors of mechanical engineering where flexikonto is not yet extensively used.

⁶⁴ Source: interview CAR3, 10.7.2015.

Trade unions remain critical on employers' efforts to legislative extend the length of flexikonto, the number of subsequent flexikontos and overlapping flexikonto schemes. Also, unions push for maintaining their co-determination right on flexikonto at company level and so far managed to prevent the introduction of a general stipulation on flexikonto in the sectoral collective agreement.

Besides legislative efforts and efforts to stipulate the use of flexikonto through collective bargaining at the sector and company levels, other instruments to address precariousness related to flexikonto remained marginal in the efforts of social partners. Trade unions focus on maintaining employment stability and respond to employers' demands regarding the extension of the use of flexikonto. The analysis does not show that the role of information campaigns, servicing or attempts of empowering workers in flexikonto schemes would play a role in the metal sector. The reason for the social partners' focus on legislation and bargaining derives from the fact that the metal sector is already extensively regulated through sectoral and company-level collective agreements.

Further initiatives of social partners on precarious forms of work relate to the use of TAW, and a combination of implementing flexikonto onto TAWs. Here we again observe a shift in trade union approaches from an exclusive attitude to TAWs in the first post-crisis years to a more inclusive one in the recent years. In both periods, OZ KOVO ascribes an important role to collective bargaining as an instrument in addressing precarious employment. However, while in the first period OZ KOVO supported stipulations in collective agreements that directly contributed to labour market segmentation (see Kahancová 2013 and Kahancová and Martišková 2011), in the latter period OZ KOVO initiates separate sector-level bargaining also for agency workers (see Section 2.2.5). In addition, unions recently suggested a legislative proposal to limit the share of TAWs to 25% in the total employment of individual companies.⁶⁵ This proposal is in negotiation between unions and employers at the sector level and also at the level of national tripartism.

On the side of employers, a noteworthy initiative is lobbying for a legislative change that would allow the use of flexikonto for TAWs even without union co-determination. Unions oppose this initiative. Additional employer initiatives developed around the new stipulation introduced in 2015 concerning the shared end user employer responsibility for wage payments and payroll taxes for agency workers. In particular, ZAP SR representing the automotive producers suggests to strengthen the role of the state in the process of monitoring and controlling the operation of the TAW sector. The automotive producers remain highly critical of the current legislation, introduced in 2015, that end users of TAWs (in this case, automotive firms) have to share responsibility for wage, tax and social security deductions for agency workers in case the agency fails to deliver these payments. In the eyes of ZAP SR representative, such legislation is a failure of the state, where the state has shifted control onto private firms – users of TAWs.⁶⁶ One of the

⁶⁵ Source: interview CAR1, 15.7.2015.

⁶⁶ Source: interview CAR3, 10.7.2015.

channels through which ZAP SR and other employers' associations in the metal sector aim to push for legislative changes and for the state overtaking more responsibility on this issue is through the Industry Alliance. The Alliance is a strong player to push for legislative changes, with more influence than each industry association separately.

2. 2. 3. 5 Conclusions

The metal sector belongs to the key sectors in the Slovak economy, especially because of the relevance of automotive production in the country. Due to its exposure to global markets, this industry was significantly affected by the 2008-2009 crisis, but recovered quickly afterwards. The crisis facilitated the use of two flexible forms of work with elements of precariousness. First, this is the flexikonto (flexible working time accounts), which helped to stabilize employment and avoided layoffs of core skilled workforce. Second, the automotive industry became the major end user of TAW to secure a high level of flexibility both in times of economic downturn and growth. The precariousness of flexikonto relates mainly to the uncertainty of working time and regular income levels, as well as to demand on overtime work when the negative hours need to be worked off. In TAW, precariousness relates to the existing abuse of TAW, lower payments, wage replacement through travel reimbursements and no coverage by collective agreements.

Employers' and trade unions' responses in the metal sector evolved mainly around flexikonto issues and TAW, and their combination (application of flexikonto onto agency workers). On the side of trade unions, we note a shift on union *approach* from exclusive to inclusive vis-à-vis agency workers, and a continuation of an inclusive approach towards core employees in flexikonto schemes. On the side of employers, an inclusive approach developed in response to the crisis, where employers do not treat workers in flexikonto or TAWs exclusively, but rather would prefer to see the whole workforce in flexible working time schemes. The **rationale** behind unions' approach is based on equality of work between different forms of employment. In contrast, the rationale in employers' behaviour regarding the use of precarious work applies to a variety of considerations, ranging from economic rationales (adjustments to economic downturns), institutional considerations (anchor the regulation of flexibility into the labour law), social (avoid dismissals) and organizational considerations (securing a high level of flexibility and access to skilled workers also in periods of growth and tight labour markets).

The preferred *instrument* of both unions and employers is consultation and negotiation, focusing predominantly on legislative efforts and political lobbying vis-à-vis the government. A slightly less important, but still relevant instrument is collective bargaining where sectoral and company-level social partners attempt to introduce stipulations regarding the use of flexikonto.

The *implications* of the above social partner approaches, rationales and instruments for the incidence of precarious work diverge. While the unions strive to reduce precariousness through regulating TAW and limiting the expansion of flexikonto, employer behaviour suggests a clear

motivation to expand flexibility and thus some precarious elements in the common forms of flexible work in the automotive industry.

2. 2. 4 Retail

2. 2. 4. 1 The sectors' economic position and employment trends

The retail sector belongs to important sectors of the Slovak service economy with a high share of foreign-owned retail chains. In Slovakia, 27 per cent of retail employees worked in foreign-owned affiliates of multinational companies in 2012.⁶⁷ While the sector was growing until 2008, the 2008 – 2009 crisis demonstrated the vulnerability of this sector to economic downturns. The sector underwent a recession with declining revenues and employment. By 2014, the average employment in retail did not yet reach the pre-2008 employment level (see Table 21).

Table 21 Average employment in retail (excluding the sale of motor vehicles and motorcycles)

	2008	2009	2010	2011	2012	2013	2014
Number of persons	175,669	168,865	164,990	166,281	164,185	163,958	163,390

Source: ŠÚSR

Because of declining sales in the post-crisis period, employers in retail sought to respond to this trend by adjusting their personnel management. The post-crisis employment trends in retail demonstrate a paradox: while on the one hand employment in retail was on the decline, on the other hand some retail chains were expanding and hiring new labour (e.g., Kaufland, Lidl and Billa). This trend relates to the expansion of business capacities and opening of new stores in Slovakia. At the same time, some retail chains (Carrefour and Hypernova) reached their maximum capacities on the Slovak market and are recently undergoing restructuring with reduction of store space and employment.

The landscape of the Slovak retail sector comprises on the one hand subsidiaries of large foreign retail chains, and on the other hand domestic retail chains and small employers. The workforce in retail comprises a high share of persons with lower education and a high share of women. These characteristics, together with employers' responses to the economic downturn, make the retail sector highly vulnerable to various dimensions of precariousness – especially low pay, working time unpredictability and job instability. Table 22 shows that wages in retail remain relatively low compared the average wage in the economy (955 EUR in the first quarter of 2015)⁶⁸, making retail one of the sectors with lowest income in Slovakia. The share of employees in retail and

⁶⁷ Source: Eurostat FATS and SBS statistics, WIBAR3 research report.

⁶⁸ Source: Information System on the Price of Labour of the Ministry of Labour, Social Affairs and Family, available at: <https://www.istp.sk/clanok/8798/Priemerna-mesacna-mzda-na-Slovensku-je-955-eur> [accessed on 21.3.2016].

wholesale (including reparations of motor vehicles) reached 1.17 per cent in the last quarter of 2014.⁶⁹

Table 22 Average nominal monthly gross wage in retail (excluding the sale of motor vehicles and motorcycles)

	2008	2009	2010	2011	2012	2013	2014
EUR	510	527	547	554	562	570	585

Source: ŠÚSR

While retail has been able to absorb a share of male workers that became redundant in other sectors after the crisis (e.g., in construction), the low pay is one of the reasons for high employee fluctuation and precariousness in the retail sector. Employers seek a compromise between reasonable fluctuation levels, especially in regions of low unemployment, and sufficient flexibility to meet their economic demands.

2. 2. 4. 2 Forms of precarious work

In the retail sector, standard open-ended employment contracts and fixed-term employment contracts are the most common contract forms. Flexibility is achieved mainly through internal flexibility related to working time allocation. Seasonally increased workload that is typical for the retail sector also yields an increase in work agreements, fixed-term contracts and work agreements for students (see Table 23). Other forms of flexible work, most notably TAW, are less common in retail. While employers claim TAW offers high flexibility that is needed for retail, the reason why the incidence of TAW in retail is limited is the high share of personal responsibility for the value of goods and money in retail chains.⁷⁰

The main dimensions of precariousness emerge from two phenomena. First, this is the low wages compared to other sectors of the economy, as discussed above in section 2.2.4.1. Second, it is the high working time flexibility that translates to irregular and long working hours that can yield (unpaid) overtime work.

According to trade unions, the actual working time practice in retail chains often does not align with legal regulation on working time. The demand for working time flexibility in retail translates into various forms of work organization, which make working time and pay hardly predictable for a large share of retail employees. Employers argue that flexibility of the workforce is crucial for retail chains to adjust to changing demand and to maintain a stable position among competition.⁷¹ At the same time, trade unions argue that employees need certainty in working

⁶⁹ Source: Trexima – Information System on average incomes, 4. quarter of 2014.

⁷⁰ Source: interview RET2, 14.7.2015

⁷¹ Source: *ibid.*

time predictability and are often pushed to irregular hours, unpaid overtime, or situations of working time planning that do not fully align with the legal regulation.⁷²

Examples listed by the trade union include, first, cases of non-stop operation of particular stores of one retail chains. While the law does regulate non-stop operation of businesses and service provision, the union argues that retail is not an economic activity that is *per se* defined as a non-stop business. Instead, in the union's view, non-stop operations apply to hospitals, firemen, police and similar organizations. However, some retail chains take benefit from the loose legal regulation and present themselves as a non-stop operation. Second, the union representative reported cases where employees were forced to agree to irregular working time for future arrangements already when signing their employment contracts, although the law requires the employee's consent with overtime, Sunday work or work after a shorter break than legally stipulated upon each individual occasion.

Another case reported by trade union was the innovativeness of some retail employers to avoid overtime payments through offering two simultaneous contracts to the same employee. In this case, the employee works the regular hours under one contract and then continues to work extra hours under the second contract (often a work agreement, in some cases as an agency worker). In the union's view, the extra hours should be remunerated according to overtime regulations.

Further practices of flexibility include employer attempts to introduce shared/divided shifts. This is attractive especially for small companies in rural areas, where demand for goods is concentrated in the morning and afternoon hours. Employers attempt to respond to the customers' demands by adjusting store hours and offering employees several hours of unpaid free time between two shifts. This is subject to trade union criticism, because unions support regular working time that fits the needs of the employee without full adjustment to the needs of customers.

Trade unions also remain critical of the fact that store hours on Sundays and public holidays are based on voluntary consent of employees to work on these days. Despite receiving a pay bonus for working on Sundays and public holidays, the union claims that a regular employment relationship should provide a decent wage without the necessity to work on Sundays and holidays. Moreover, in the eyes of the union, employees are afraid to refuse to work on Sundays and holidays in order not to lose their jobs, especially in regions with high unemployment.

The situation is different in the capital city Bratislava, where retail faces large workforce fluctuations and a high competition between retail chains (especially in foods) to maintain a stable pool of employees. The low pay and long/irregular working hours in retail are recognized by employers as a crucial factor behind these fluctuations. Individual retail employers are revising their remuneration policy in order to decrease the fluctuation levels. This happens by

⁷² Source: interview RET1, 16.7.2015

introducing various bonuses and benefits for employees as well as a revision of pay levels in company-level collective agreements.⁷³

In sum, precariousness in the retail sector lies in low wages and innovative ways of employers to organize working time in order to secure a high degree of internal flexibility. In terms of job security, precariousness is relevant for seasonal and fixed-term workers. Regional differences suggest a variation from high labour force fluctuation in the capital city and Western Slovakia and great job stability, coupled with fears of losing a job, especially in regions in the Eastern part of the country and in rural areas with higher unemployment levels.

⁷³ Source: interview with a retail chain HR manager, not part of the PRECARIR project, and the author's regular participation in the selection committee to select the employer of the year, with large retail chains presenting their HRM policies.

Table 23 Dimensions of precariousness in the retail sector (dominant forms only)

Quality of working conditions						
	Incidence	Wages	Working time	Job security	Social security	Voice
Full-time open-ended contract	Widely used in retail	No regulation at sector level, diversity across particular employers In general, low wages in retail (see above) Minimum wages set by law	Equal treatment guaranteed by law Over-time work common; to avoid overtime payments some employers hire the employee on additional contract (e.g. a full-time open-ended contract supplemented by a work agreement contract)	High, stipulated by law. Job security is not an issue in retail; instead, employer concerns about the high fluctuation rate in regions with high competition of retail chains and other job opportunities	High, in accordance with legal stipulation Some entitlements only after 2 years of work (e.g. unemployment benefit)	Most large retail chains unionized with well established unions and bargaining at company-level. Lidl, Kaufland, Ikea not unionized, unions try to get access. Sector-level bargaining established and functioning.
Fixed-term and part-time contracts	Widely used and further increasing in retail, due to seasonal increases of workload and demand for workforce	Same as above; generally low wages in retail, at company level discrimination shall be avoided	Same as above	Low given the character of seasonal work, but due to high fluctuations of regular employees, fixed-term workers do have opportunity to receive a stable job	Same as above	Same as above Unions try to limit the number of fixed-term contract prolongations in legislation
Work agreement contract and work agreements for students	Widely used in retail especially to cover seasonal demands for employment; Unique agreements for students also widely used	Same as above; generally low wages in retail; at company level discrimination shall be avoided	Working time limited by law, in practice used at maximum allowed level and in cases abused – see above	Same as above; for students involved in low-skilled work in retail, job security relates to regularly available seasonal job opportunities	Comparable to a part-time employment relationship, in accordance with legal stipulation after the 2013 legislative changes (highly precarious with low social security prior to 2013)	Most large retail chains unionized, but some workers can be excluded from bargaining coverage (e.g., agency workers or workers with a work agreement instead of a regular employment contract)

Source: interviews RET1 and RET2; data collected and interviews with representatives of the retail sector within other EC-funded projects (WIBAR3, NEWIN, BARSORI - not part of the PRECARIR project).

2. 2. 4. 3 Industrial relations in the retail sector

Despite some tensions in employers' views on regulatory tools (e.g., store opening hours) between large foreign-owned retail chains and domestic retail chains and individual retail firms, industrial relations in the retail sector are well organized and structured (see Table 24). The Trade Union Federation of Employees in Retail and Tourism (*Odborový zväz pracovníkov obchodu a cestovného ruchu*, OZPOCR) is the only sectoral trade union representing workers in retail. The union has established base organizations in all major foreign retail chains, except Lidl and Kaufland. In most retail chains, bargaining is fairly established at the company level (e.g., Tesco, Billa, Metro) and the cooperation of the unions with employers is based on trust and fair relations despite occasional tensions, strike threats or filing cases of non-compliance with legal regulation to the court.

On the employers' side, the Federation of commerce and travel (*Zväz obchodu a cestovného ruchu*, ZOČR), has the leading representative at sectoral level. The retail network of Slovak cooperatives *COOP Jednota* negotiates a higher-level collective agreement with OZPOCR for its members independently from ZOČR.⁷⁴ Besides legislative efforts targeting e.g. the quality of goods and agricultural produce, ZOČR is actively engaged in social dialogue at the tripartite level (through its membership in peak-level employers' association RUZ SR) and in sectoral collective bargaining with OZPOCR. Since 2016, the Slovak Alliance of Modern Retail (*Slovenská aliancia moderného obchodu*, SAMO) was established as a new professional umbrella association of the the four largest retail chains and one wholesale chain in Slovakia. Three SAMO members (Billa, Tesco and Metro) have well established collective bargaining with OZPOCR base organizations at the company level, while two SAMO members (Kaufland and Lidl) did not yet engage in a bargaining relationship with trade unions at the company or sector level. OZPOCR attempts to negotiate with the managements of these retail chains to establish trade unions, but in early 2016 no union-management relationship exists yet. Also, no sector-level social dialogue or bargaining between OZPOCR and SAMO developed yet at the time of writing.

Extension of sectoral collective agreement for retail and wholesale, signed between OZPOCR and ZOČR, does not apply. The reason is the diversity of interests of various retail employers, and thus the preference of sectoral social partners to avoid an extension of the sectoral agreement (unlike in the metal sector).

⁷⁴ Source: interview RET1, 16.7.2015.

Table 24 Industrial relations in the retail sector

Trade unions	Trade Union Federation of Employees in Retail and Tourism (<i>Odborový zväz pracovníkov obchodu a cestovného ruchu</i> , OZPOCR)
Estimated trade union density in the sector*	5.10% (2011)*
Employers' associations	Federation of commerce and travel (<i>Zväz obchodu a cestovného ruchu</i> , ZOOCR), 92 members in 2015 COOP Jednota, 30 cooperatives in 2014 Slovak Alliance of Modern Retail (<i>Slovenská aliancia moderného obchodu</i> , SAMO), 5 members in 2016
Dominant bargaining level for collective agreements	Sectoral and company level
Estimated employers' organization density in retail/wholesale	ZOOCR: 14.5% (2011)*, 15-16% (2015)**
Sectoral bargaining coverage**	15-20% (2010, estimate)

* Barošová (2011)

** ZOOCR Estimate, source: interview RET2 14.7.2015.

Source: interviews RET1 16.7.2015 and RET2 14.7.2015, ZOOCR, SAMO, COOP Jednota and OZPOCR websites, Barošová (2011)

2. 2. 4. 4 Trade union and employers' actions, best practices, examples

Social partner actions and responses to the above forms of flexible and precarious work differ in some aspects from the other sectors. First, although sectoral social dialogue structures are firmly established, the sector level interaction between employers and trade unions does not play a central role in addressing precariousness. In retail – to a greater extent than in the other studied sectors – social partner actions predominantly focus at the company level. Second, in contrast to other sectors, social partners in retail do target legislation to address issues of flexibility and precariousness, but predominantly do not focus on intensive lobbying for the implementation of legislative changes. Instead, trade unions seek compliance of employer behavior with the existing legislation in individual cases at the company level. OZPOCR argues that the current Slovak labor legislation is fair and extensive, one of the best in the region. Criticism targets lack of compliance with the law, lack of enforcement mechanisms, and employers' efforts to interpret legislation to their own benefit (e.g., the case of non-stop store hours explained above).

Recognizing that a full elimination of precarious employment is impossible, OZPOCR aims at equal working conditions, including pay and access to decent working time arrangements, for all employees regardless of their type of employment contract. The emphasis is on the one hand on a bottom-up approach drawing on direct interaction between the union and particular retail chains (e.g., Tesco and Billa); on the other hand on a top-down approach to regulate precarious employment through legislation. For the former, structural preconditions such as union workplace presence and a fair relationship with the retail chain management is crucial. These structural preconditions are at place, which to some extent facilitates union efforts despite a power

asymmetry between the union and large retail chains.

In contrast to the strategy of reduction, the strategy of organizing precarious workers is less prominent and less effective. Unions face a declining membership throughout the whole economy, and find it increasingly difficult to organize new members, especially from among temporary and agency workers. Nevertheless, in the author's 2011 study (Kahancová and Martišková 2011) the retail sector union reported a diverse membership, including members from among precarious employees. This differs from some other sectors, most notably the metal sector, where union membership is more homogeneous (*ibid.*).

The OZPOCR trade union employs three kinds of instruments to reach reduction or at least a better regulation of precarious elements in retail employment. These include political action to improve legal regulation, dissemination of information and services to precarious employees, and engagement in litigation to uncover employer non-compliance with the law and avoid the institutionalization of informal work practices in conflict with the Labour Code. Involvement in shaping legislation (e.g. the regulation on store opening hours) is perceived as a key instrument for OZPOCR, although the union participates in the legislative process only indirectly through its membership in the trade union confederation KOZ SR. OZPOCR directly engages in the latter instruments – information/services to employees and litigation. The union regularly diffuses information on employment rights and obligations, including health and safety provisions, through information bulletins and direct interaction of union representatives with workforce at particular workplaces. Although there is no action selectively targeting precarious employees, OZPOCR provides services and information to all employees (e.g., legal advice on working time and contract regulation). The union is inclusive not only in its services, but also in terms of membership, representing the interests of all employees in the retail sector despite difficulties in organizing precarious employees.

The union's regular monitoring and reporting activity either facilitates bargaining with the employer, or in case of no agreement, litigation and inspections of working conditions by the Labour Inspectorate (*ibid.*). This instrument is effective at lower levels of action than the national level, because it requires a solid union presence at particular workplaces in retail chains. Through daily interaction of union representatives with the workforce the union is able to uncover cases of working time abuse. The reporting of such cases also happens through direct interaction between union representatives and the management of a particular retail chain. Next, the union interacts with the National Labour Inspectorate, which has the right to formally penalize employers. The main problem in this process is power asymmetry between unions and retail chains and a related lack of enforcement. Even if the employer is aware of its unlawful behavior, the union, and to some extent the Labour Inspectorate, too, lack power to enforce corrections. Therefore, union efforts to reduce particular dimensions of precariousness related to working time and contracts are only partially successful, because employers repetitively engage in working time breaches. Their financial punishment is low when compared to benefits obtained from a flexible and cheap

workforce. The union strived to implement a stipulation that after three incidents of breaching the Labour Code the retail chain would lose its licence (ibid.). This attempt was not successful due to employer reluctance and a lack of support by the government, because large international retail chains possess economic power resources deriving from their relevance for the Slovak economy.

Due to little interest of the Slovak retail workforce to engage in mobilization activities (strikes, protests, petitions), the union prefers long-term and regular action to organizing large-scale targeted campaigns against precarious employment. Another reason for such a choice of action derives from the fact that the OZPOCR union itself lacks own capacities (organizational, financial and membership-based) to engage in more visible and targeted action and high-cost mobilization efforts to reduce precarious employment.

Finally, the role of collective bargaining for reducing precariousness is relevant at the company level. In the past five years, OZPOCR has attempted to modify the company-level collective agreement of a particular retail chain by including a stipulation that the company will hire preferably employees with open-ended full-time contracts. This attempt failed due to employer resistance. At the sector-level, it would be even more difficult to bargain such provisions, because the sector-level collective bargaining in retail comprises employers with diverse interests. The low wage dimension of precariousness is thus not addressed at the sector-level of collective bargaining, but exclusively at the company-level.

The approach of employers differs from that of trade unions. Employers would prefer more flexibility, which could happen through loosening the currently tight legislation. In the employers' view, this step would also create more jobs in the retail sector. The main instrument of employers is targeting legislation, both through political alliance building, lobbying and tripartite social dialogue. ZOČR is a member of an influential peak-level employer association RÚZ SR, which often comments on the legislation concerning labor market regulation. The sectoral employers' federation ZOČR considers membership in RÚZ SR of crucial importance and benefits RÚZ's political power and resources. The interview respondents claimed that RÚZ has helped ZOČR on several occasions when dealing with trade unions – mainly through demonstrating a strong resource for employers and power asymmetry between retail employers and the union.⁷⁵ At the same time, ZOČR admits that political lobbying has a limited impact; and employers need to negotiate and find common interests with each government regardless of its political affiliation. Therefore, employers seek interaction and compromise with each incumbent government regarding the requested legislative stipulation for higher flexibility and seasonal increases in work. In response to the fact that the 2012 – 2016 government openly supported trade unions, ZOČR argues that

⁷⁵ Source: interview RET2, 14.7.2015.

“... it is a pity that the social-democratic government has a strong ally on the side of trade unions. This prevents job creation.”⁷⁶

More specific responses of organized employers' interest in retail related to limitations to the number of subsequent work agreements and fixed term contracts. Also, employers remain critical about the union's information rights. Unions wish to receive company-specific information on overtime work, benefit payments, holiday regulation and shift organization. Besides this criticism, ZOCCR admits a long-established and bargaining relationship with OZPOCR at the sectoral level. Employers are in principle not against collective bargaining as one of the regulatory tools of working conditions in retail. Employers argue that an established bargaining mechanism meets their needs better than having to face adversarial relationships and individual protests/riots by employees upon dissatisfaction with working conditions. At the same time, employers stress that the fundamental precondition for improving working conditions – whether through bargaining or other regulatory tools – is securing reasonable revenues in the retail sector.

Finally, the reason behind lack of specific initiatives of employers to address flexible work forms lies in the fundamental divergence of interests of members of ZOCCR. The divergence mostly concerns large multinational retail chains on the one hand, and smaller domestic retail firms on the other hand. While trade unions argue that precarious working conditions are present among both groups of employers, ZOCCR argues that small firms are more likely to abuse the legal regulation and thus increase precariousness in retail work. This is because large firms cannot afford disrespect of the law. Interestingly, there is no pressure of the large retail firms on the small ones to comply with the legislation. This differs interestingly from the TAW sector, where large agencies develop pressures and regulatory efforts in order to force small agencies to comply with the law.

2. 2. 4. 5 Conclusions

To sum up, the retail sector was affected by the crisis differently than sectors directly integrated into global markets and demand. On the one hand, retail had to face some decline in revenues and employers sought more flexibility in employment. On the other hand, retail was able to absorb excess workers (especially male workers) from other sector hit more severely by the crisis. The most common employment form with elements of precariousness is a regular full-time contract and fixed-term contracts. Retail also seasonally hires students and workers on work agreement contracts. Other flexible and precarious forms of work, e.g., TAW, are not that widespread in retail. Precariousness lies mainly in two dimensions – low pay and unlawful practice of working time organization.

⁷⁶ Source: *ibid.*

The union's *approach* to precarious workers has always been inclusive, although the union did not reach particular successes in organizing such employees. Employers' also take an inclusive approach and do not discriminate between precarious and regular employees in their human resource policies. Divergence to this rule applies in case of no bargaining coverage of collective agreements on some groups of workers, e.g. agency workers or student workers with a work agreement specifically targeting student work. The *rationale* behind trade union behavior lies in the principle of equality for all kinds of workers, and securing decent working conditions without the need to work on Sundays and public holidays. In contrast, employers' actions are informed by economic rationales and the need to secure stable revenues in order to offer more jobs (albeit more flexibility). The preferred *instrument* for both unions and employers is impact on legislation. However, social partners differ in the way they utilize legislation for their actions. While employers try to directly influence legislation, the OZPOCR union is less successful in this and concentrates its efforts to seek legislative compliance at the company level. In contrast to other sectors, sector-level collective bargaining plays a minor role for shaping precarious work in retail. The social partners also did not engage in any initiatives to strengthen the sectoral regulation, because they concentrate their efforts in maintaining the firmly established and functioning bargaining structures and collective agreements at company level.

Implications of the above approaches, rationales and instruments for the future of precarious work differ from the unions' and the employers' perspective. While the general long-term strategy of trade unions in retail is reduction of precarious employment, employers lobby for expansion of flexibility, which may yield also expansion of precariousness. However, due to a large power asymmetry between unions and retail chains, union action to reduce precarious work is not always effective. For example, an attempt to introduce stricter rules against manipulation with working time and employment contracts failed due to employer resistance. Such effort faced immediate opposition by employers and indirectly also by the government, because large foreign retail chains belong to major players in the Slovak economy. This leaves the union with limited power resources for particular action beyond the kind of action described above.

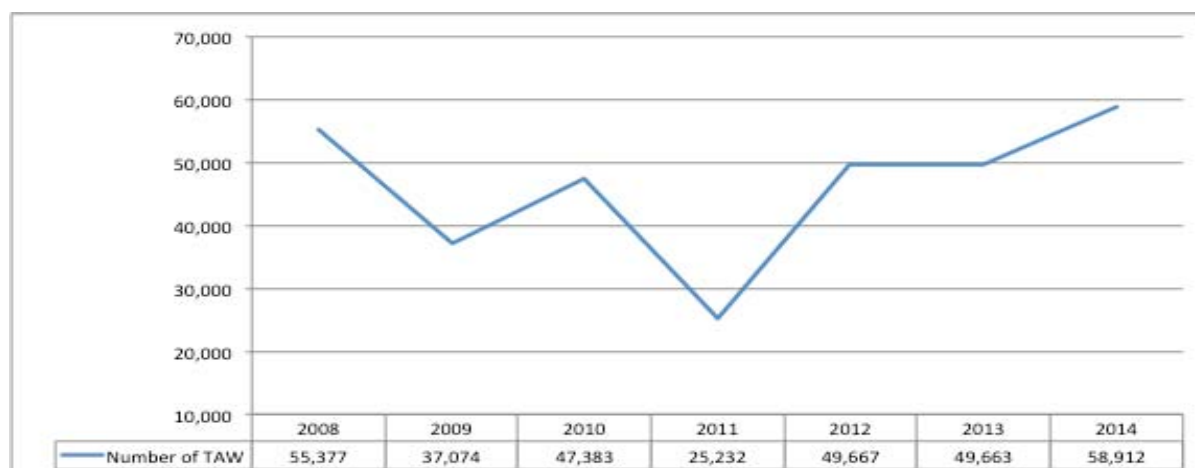
2. 2. 5 Temporary agency work

2. 2. 5. 1 The sectors' economic position and employment trends

The importance of temporary agency work has grown in recent years, especially with the development of automotive and electronic industries and their recovery in the post-crisis period. While the immediate post-crisis years saw stabilization of the core workforce (on regular employment contracts) and deepening labour market segmentation between the core workforce and workers in various short-term and flexible employment forms, the recent years brought

recovery of industry and thus a boost to the TAW sector. Despite the still marginal share on total employment, agency work has been rapidly growing especially since 2011 (see Figure 7).

Figure 7 Temporary agency workers in Slovakia (2008 – 2014)*



* Data sources greatly differ on the number of TAWs. Eurociett (2011 and 2014) reported 10,828 agency workers in 2007 and 49,700 agency workers in Slovakia in 2011. In another source, ÚPSVaR reported 81,400 registered agency workers in 2013, which is significantly higher than reported in this chart (also using ÚPSVaR data directly provided to the author)

Source: ÚPSVaR, administrative data reported by licensed agencies to ÚPSVaR.

The growth of the TAW sector is not only documented by the growth of agency workers, but also by the growing number of licensed temporary work agencies (see Table 25). Besides their high number, there is a fragmented landscape of agencies, with a few larger multinationals (e.g., Trenkwalder, Adecco, Manpower, Edymax) on the one hand, and, a high number of small local agencies on the other hand.

Table 25 Employment and revenues in the TAW sector⁷⁷

	2007	2011	2013	2014	2015
Number of active licensed agencies	n/a	n/a	n/a	1,221	1,305
Revenues in the sector EUR*	31 millions	n/a	500 millions EUR**	n/a	n/a
Share of end user companies using TAW	n/a	n/a	1.3%* 5-6%**	n/a	1.3 – 1.5%***

⁷⁷ Source: ÚPSVaR. There are very few official statistical data available regarding the number of registered agencies and temporary agency workers. Official data are collected by ÚPSVaR from annual reports submitted by agencies, but not all agencies fully complete these reports or fail to submit them at all. Therefore, social partners do not treat the presented data as particularly reliable.

Sources: * Eurociett (2011 and 2014), ** estimate, interview TAW1 13. 3. 2014, *** estimate, interview TAW2 23.9.2015.

Almost three quarters of all TAWs are allocated in industry – manufacturing (see Table 26).

Table 26 Number and share of TAWs by sectors (2014)

Sector	Number of TAWs (2014)	Share on overall TAW employment (%)
Agriculture, forestry and fishing	958	2,074%
Mining and quarrying	14	0,030%
Manufacturing	33.219	71,909%
Electricity, gas, steam and air conditioning supply	12	0,026%
Water supply; sewerage, waste management and remediation activities	12	0,026%
Construction	959	2,076%
Wholesale and retail trade, repair of motor vehicles and motorcycles	271	0,587%
Transportation and storage	3.363	7,280%
Accommodation and food service activities	374	0,810%
Information and communication	2.274	4,923%
Financial and insurance activities	112	0,242%
Professional, scientific and technical activities	55	0,119%
Administrative and support service activities	490	1,061%
Education	2	0,004%
Human health and social work activities	150	0,325%
Arts, entertainment and recreation	1	0,002%
Other service activities	3930	8,507%
Total	46196	100,00%

Source: ÚPSVaR, based on administrative data submitted by licensed agencies. The discrepancy between the total number of TAWs from Figure 7 and Table 25 is because not all agencies have reported their sectoral allocations of TAWs.

Employers' demand for increased workforce flexibility, combined with pressures on cost containment, are identified as the main drivers of the agency work increase. Next, there is also a strong legislative reason underlying the growth of agency work in the most important sectors of the Slovak economy. TAW became an attractive alternative to other precarious and flexible employment forms especially after the Labour Code amendments in 2011 and 2013. These amendments limited the flexibility of fixed-term employment and increased costs on work agreements, thus securing TAW as the most feasible form of flexible employment for large firms in automotive and electronics industries. Some employers remain critical about the 2015 legislative amendments, which, in their view, limited the earlier flexibility offered by TAW. This relates to a new regulation on shared responsibility of agencies and end users to pay wages and

all payroll taxes on agency workers, limits to subsequent agency contracts with the same end user employer and limits to the maximum duration of agency work.⁷⁸

Suppliers to large automotive firms from textile, cable or leather industry also use TAW to maintain high levels of flexibility. The persistence of TAW is supported not only by end user demand, but to some extent also by employees and job seekers. In regions with limited number of other job opportunities, temporary agency work is in high demand. As one of the interviewed trade unionists claimed, those employees “*are happy to work at least there*”.⁷⁹ At the same time, interviews in the TAW sector suggest that only a marginal share of TAWs prefer this form of work in the long-term perspective. The majority of TAWs hopes to get a full-time regular job in one of the stable large employers in the automotive sector.

Although employers prefer TAW and develop legislative efforts to further extend its use, they claim that due to frequent abuse of working conditions, especially among small local agencies offering dumping prices, agencies suffered from negative societal reputation.⁸⁰ Therefore, employer initiatives also include marketing activities to raise awareness on TAW benefits.

TAW lacks recognition as a distinct sector in Slovak legislation and statistical monitoring. The only state authority that monitors the number of TAWs is ÚPSVaR. While ÚPSVaR documented 81,400 TAWs in 2013 (see Figure 7), interview respondents estimated only 40,000 agency workers. Most agency workers are assigned to large end user companies with more than 500 employees. The average length of stay at one end user employer is 1-3 months. Trends in TAW can be derived from trends on fixed-term contracts, covering also TAW as the most common form of fixed-term employment.⁸¹ The number of fixed term contracts grew between 2009 and 2013 by 2.5 percentage points (expressed as the percentage of all employees), which represents a 57% increase in the share of fixed term contracts, from 84.9 to 133.5 thousands.⁸²

2. 2. 5. 2 Forms of precarious work

Despite trends to improve the legal regulation of TAW, this form of work still bears elements of precariousness (see Table 27). The possibility to employ agency workers on other contracts than regular employment contracts has been prohibited. However, interview respondents still report cases that some agencies employ their labour force on work agreements. Another dimension of precariousness in TAW is the temporary character of work and related long-term job insecurity and security of income. Finally, the most important dimension of precariousness in TAW derives

⁷⁸ Source: interview TAW2, 23.9.2015

⁷⁹ Source: interview CON2, 23.5.2014.

⁸⁰ Source: interview TAW3, 7.9.2015.

⁸¹ Source: Eurostat and ŠÚSR.

⁸² Source: Eurostat.

Table 27 Temporary agency work and precariousness

Quality of working conditions						
	Incidence	Wages	Working time	Job security	Social security	Voice
Formal employment status						
Full-time open-ended contract	Almost non-existing in TAW sector.	No regulation at sector level Minimum wages set by law Follow user employer conditions – in some companies equal treatment to regular employees (e.g. large car manufacturers) in smaller firms often abuse Abuse of full wage payments common until 2015 – through cash payments and non-taxable travel reimbursements without social security entitlements No access to social fund benefits at the end user employer	Equal treatment guaranteed by law In many aspects equal treatment not implied, e.g. access to subsidized catering if provided by employer Over-time work common	At the discretion of the agency or the user employer Assignment limited to 24 months and max. 4 renewals with one end user employer	High, in accordance with legal stipulation, but limited to 24 months with one end user employer Some entitlements only after 2 years of work (e.g. unemployment benefit)	Low (low level of organization because of inherent fluctuation of TAWs across different sectors) On employers' side many agencies, competition, fragmentation Employer initiatives to regulate working conditions in the sector through law, but also first steps to possibly negotiate a sectoral collective agreement in the future Recent trade union initiatives on behalf of TAWs despite a low organization level
Fixed-term and part-time contracts	Widely used in the TAW sector Usage depends on user employers' requirements on temporary workers.	Same as above	Same as above	Low job security; flexibility in hiring and firing is one of the highly appreciated advantages of temporary agency workers	Same as above	Same as above Unions try to limit the number of fixed-term contract prolongations in legislation
Work agreement contract	Explicitly forbidden by law since 2011 for TAWs; trade unions claim that still used in practice	Same as above; or lower wages compared to regular full-time employees of end user employers	Working time limited by law, in practice used at maximum allowed level	Assignment limited to 24 months and max. 4 renewals with one end user employer	Comparable to a part-time employment relationship, in accordance with legal stipulation after the 2013 legislative changes (highly precarious with low social security prior to 2013)	Same as above

Source: media coverage and interviews TAW1, TAW2, TAW3 and TAW4

from practices of unlawful employer behaviour in order to minimize labour costs. One of the reasons for agencies not respecting legal regulation is the pressure from end user firms.⁸³ In turn, agencies often find innovative ways how to avoid legal requirements. In the past, the most common form was replacing part of the wage through (tax-free and deductions-free) travel reimbursements (see Table 28). This decreased the employees' social security entitlements including maternity leave, sickness benefits and pensions. After law has prohibited this practice in 2015, innovative practices include hiring agency workers through Czech work agreements. Workers often voluntarily inform the unlawful employers' practices, because they prefer to have a job, or they trade off higher cash payments for future social security.

Table 28 Wage replacement through travel reimbursements and per diems in the TAW sector

	Regular wage and deductions (in EUR)	Part of wage substituted via travel reimbursement (EUR)
Employee payments		
Gross monthly wage	600	338*
Deductions for social security	215	121
Meal vouchers by law	36	36
Travel reimbursement	0	188
Total labour costs	851	682
Profit for the agency	113	458
Total monthly price for the end user employer	1132	1132
Employee entitlements		
10 days paid holiday	275.99	155.34
Sickness benefit for 5 working days	79.89	44.96
Monthly unemployment benefit entitlement	295.89	166.54
Impact on state revenues (in case of 15,000 agency workers)	Agencies paying full wage entitlements and taxes (Agencies using wage replacements
Monthly revenues from social security contributions	3,627,000	1,815,500
Annual revenues from social security contributions	43,524,000	21,780,000

* The statutory monthly minimum gross wage has increased since this calculation has been published in 2013. In 2016, the statutory minimum wage is 405 EUR.

Source: Pluska 16.5.2013, in <http://www.pluska.sk/spravy/ekonomika/sokujuce-fakty-personalne-agentury-sklbu-ludi-plate-dochodku.html> [accessed 14.3.2016].

Next, despite the maximum prolongation of a definite contract of two times within two years, temporary agency work was, prior to 2015, an exception and the legislation allowed for indefinite number of prolongations. This yielded high flexibility without a

⁸³ Source: interviews TAW1, 13.3.2014 and TAW2, 19.8.2014.

perspective for agency workers to obtain a permanent regular employment contract with a selected end user employer.

Recent legislative changes since 2015 try to react to these incidents. Agencies face stricter regulations, which should “*protect temporary agency workers but also narrow the competition in the sector*”.⁸⁴ Changes concern the length of fixed term contracts in TAW, regulation of per diems and increase of responsibility of end user employers. According to the amendment, the length of temporary assignment has been limited to 24 months and should be explicitly listed in the agreement between the agency and the end user company. Prior to this rule, the length of temporary assignation could have been defined by project duration or the order of end user employer.

2. 2. 5. 3 Industrial relations in the TAW sector

Since TAW encompasses a complex structure of employment relations that spread across various sectors, industrial relations in TAW are also more complex than in the other studied sectors. First, until recently, a clear trade union representation of TAWs has been lacking. Trade unions organized along sectoral principles were reluctant to represent agency workers because of their diffusion throughout many sectors, and the volatile character of TAW. However, as temporary agency work was gaining importance and brought an increase in unlawful employer behaviour, trade unions realized the opportunity to encompass the interests of the agency workers in their activities. On the employers’ side, organized interests crystalized with the growing innovativeness in the use of TAW. The landscape of employers’ associations remains fragmented (see Table 29). Sectoral bargaining structure does not yet exist, but APAS, launched negotiations with OZ Kovo with the perspective of concluding a sectoral collective agreement in the future. In 2014, both parties signed a memorandum of cooperation, but so far no collective agreement has been concluded. In contrast to APAS, HRA does not consider collective bargaining as a relevant regulatory tool for the current situation in TAW sector. Currently all social partners prefer to focus on legislative steps to introduce further regulation to working conditions of TAW. Moreover, employers’ associations find political connections highly important in order to influence legislation for TAW under changing governments.

⁸⁴ Source: News media coverage, <http://spravy.pozri.sk/clanok/Docasne-pridelenie-zamestnanca-ma-trvat-najviac-dva-roky/274786> [accessed 15.9.2014].

Table 29 Industrial relations in the TAW sector

Trade unions	Odborový zväz KOVO (Trade Union Federation Kovo, OZ KOVO) Non-union forms of employee representation - marginal
Estimated trade union density in the TAW sector*	n/a, OZ Kovo is the only union currently acting on behalf of agency workers Non-union forms of employee representation – estimate below 5% of agencies**
Employers' associations	Asociácia personálnych agentúr Slovenska (Association of staffing agencies of Slovakia, APAS) – established in 2002, 10 members, member of peak-level National Union of Employers (<i>Republiková únia zamestnávateľov, RÚZ</i>)* Asociácia poskytovateľov služieb zamestnanosti (Association of employment services providers, APSZ) - 12 members, out of which 7 temporary work agencies, member of peak-level Federation of Employers' Associations (<i>Asociácia zamestnávateľských zväzov a združení, AZZZ</i>) HR Aliancia (HR Alliance, HRA) – established 2013, 7 members, member of peak-level National Union of Employers (<i>Republiková únia zamestnávateľov, RÚZ</i>)
Dominant bargaining level for collective agreements	No bargaining established
Sectoral bargaining coverage**	Marginal or none, TAWs not covered by agreements valid for regular employees at end user employer firms

* Source: Registry of Interest Associations of Legal Persons

(<http://www.ives.sk/registre/detailzpo.do?action=uplny&formular=nazov&id=151469>

[accessed 28.3.2014].

** Interview TAW2, 23.9.2015

Source: interview TAW1-4, authors' own research, Bulla et al. (2014).

2. 2. 5. 4 Trade union and employers' actions, best practices, examples

The current state of affairs and gradually changing legislation on TAW is to a great extent ascribed to initiatives of social partners. From employers' and unions' initiatives, (joint) efforts to shape legislation are by far the most important. The difference is in the aims – whereas unions aim to limit the use of TAW (through equalizing working conditions between TAWs and core employees in an end user employer), employers would welcome a more extensive use of TAW but in better regulated conditions.

Accordingly, the position of social partners on recent legislative changes differs. Trade unions welcome strengthened protection of agency workers and claim that “*if we cannot ban the temporary agency work completely, we try to regulate it such that it provides decent working conditions at the level of regular workers, at least.*”⁸⁵ While unions acknowledge that eliminating TAW is not a realistic aim, they maintain that the regulatory environment should force the end user employers in contributing to

⁸⁵ Source: interview TAW4, 26.8.2014.

a functioning and fair TAW system. This means that end user employers shall be more conscious when hiring temporary agency workers and not only follow the principle of cost cutting. This aim, supported by APAS, was integrated in the 2015 legislation introducing shared responsibility of end user employers on wage payments to agency workers if the agency fails to pay wages, taxes and social security contributions.

On the employers' side, there is a disagreement on the extent of regulation that the TAW sector requires. HRA perceives regulation as being against the constitution, especially the shared responsibility of the end user employer for wage payments to agency workers.

“This is unacceptable for us. User employer once paid to agency for the services, why should he pay double if the temporary agency is bankrupt? We consider this is an inadequate [...] shift of a state control mechanisms onto employers.”⁸⁶

In contrast, APAS perceives regulation as a necessary step in improving conditions in the TAW sector, including limiting the number of staffing agencies that do not adhere to the legal regulation, and eliminating unfair practices. HRA criticizes APAS for being too active in pushing for legal regulation that in the end brought great limits to flexibility that TAW did/could offer.⁸⁷ APSZ initially supported more regulation through collective bargaining with unions, but later did not engage in bringing these efforts to a productive end.

Other than the divergent position of social partners on the extent of responsibility of user employers, there is agreement in a number of other issues. The most notable one is the end to the practice of TAW abuse through wage replacement via travel reimbursements. This has been also prohibited by the 2015 legislation, mainly upon the initiative of APAS and OZ Kovo. A further initiative of employers' organizations with support of OZ Kovo was the effort to reduce the number of licensed agencies. This goal has been achieved through the 2015 legislative changes, which strengthened conditions for license acquisition and capital endowment of agencies. Although employers pushed for this legislative change, they did not expect a significant reduction of temporary agencies, because of the existing informal networks and corruption between state representatives with competences to influence the licensing of agencies.

While the majority of social partner initiatives target the national and sector levels, trade unions also aim at regulation that directly influences the position of agency workers at the company level. Until 2011 union strategies at company level were rather exclusive towards TAWs. The reason was their temporary presence at one workplace, which did not motivate unions and workers to cooperate. Although the unions adopted a much more inclusive approach to TAWs since 2011, OZ Kovo is

⁸⁶ Source: interview TAW2, 19.8.2014.

⁸⁷ Source: interview TAW2, 23.9.2015.

still concerned with lower density figures when TAWs are counted in the total workforce, or with the fact that TAW presence at a company decreases the success of a possible strike, because agency workers are an always available flexible pool to replace regular employees.⁸⁸ Nevertheless, unions are satisfied with legislative developments that decrease the difference in working conditions between agency workers and workers with regular contracts. Recent union initiatives vis-à-vis agency workers concerned legal guarantees of equal treatment of agency workers and regular workers, prohibition of hiring agency workers on other than regular employment contracts and equal pay for agency workers. Currently unions strive for regulation that would limit the overall use of agency workers to a certain percentage of staff working at an end user employer.⁸⁹

Besides legislative efforts, there were efforts of APAS and OZ Kovo, with initial involvement of APSZ, to launch negotiations that shall lead to formalized bargaining processes and eventually a conclusion of a sector-level collective agreement for agency workers. Interest in establishing bargaining institutions in a previously unorganized sector without any sector-level institutions therefore resembles an important shift in social partner's strategies to deal with the precariousness in TAW. The potential collective agreement shall aim to set a benchmark for agency employment in Slovakia, and to partly substitute for a lacking state control mechanism in defining decent working conditions in the TAW sector. Through the institutionalized practice of extending bargaining coverage, OZ Kovo would request an extension of such agreement to reach sector-wide coverage.

Employers remain fragmented on the role of collective bargaining in TAW. Even though all employers' associations agree that regulation is necessary to stop illegal practices and competition through social dumping, HRA does expect the collective agreement to be the right tool to introduce greater changes.⁹⁰ This is due to the diversity of agencies and their conditions, the flexibility that agencies do not want to lose, and fear from increasing labour costs and thus a loss of clients.

Since a compromise between the social partners is necessary, the agreement – if at all feasible – will most likely include only several and rather modest regulations on TAW (e.g., that employees over 50 years should be entitled to three-month severance payment in case of dismissal). Furthermore, since there is no state-driven control mechanism, a sectoral collective agreement would replace the state's role and set a benchmark for fair employment practices for employers to follow. The lacking state control on the operation of agencies has been highlighted by an employer's representative:

⁸⁸ Source: interview TAW4, 15.7.2015.

⁸⁹ Source: interview TAW4 15.7.2015.

⁹⁰ Source: interview TAW2, 23.9.2015.

“The Labour inspection authority uncovered 51 thousands of labour law infringement cases, but only 200 subjects were fined. Moreover, fines are considerably low with an average of 150 EUR.”⁹¹

The newly established sectoral control mechanism should include the establishment of a commission monitoring and reporting law infringements.

Other initiatives on the side of social partners include more data collection on workers' mobility (HRA project in late 2015), in order to assess further steps to strengthen agency work and its flexibility advantages not only for employers but also for workers. Finally, APAS is launching a marketing campaign to raise awareness of TAW among employers and thereby to facilitate an increased use of TAW in the Slovak economy, to reach the size of the sector comparable in many Western EU member states.

2. 2. 5. 5 Conclusions

Despite its overall low share on employment in Slovakia, TAW experienced rapid growth in the post-crisis years and remains concentrated in Slovakia's most important economic sectors. Prior to 2015, dimensions of precariousness in TAW related mainly to frequent abuses of agency work to substitute wages through other forms of payment (exempt from tax and social security contributions), the unlimited prolongation of temporary TAW contracts, lacking access of agency workers to social benefits applicable to standard employees working in the end user company, and lacking interest representation and bargaining coverage.

The increase of TAW facilitated a series of trade union and employer responses, which can be summarized as follows. First, realizing that an elimination of TAW is not feasible, trade unions shifted their *approach* from exclusive to inclusive strategy vis-à-vis agency workers and started engaging in national, sectoral and company-level initiatives to increase the employment protection and social rights of agency workers. Second, employers also started to mobilize against the unfair practices of some agencies and adopted an inclusive approach. The *rationale* behind trade union action is reaching equality in the quality of work between different forms of employment; while the rationale behind employers' action is grounded in moral/regulatory considerations to eliminate unfair practices (also vis-à-vis the self-employed) and introduce a fair and regulated economic competition in the TAW sector.

The preferred *instruments* of social partners include legislative action and lobbying for legislative changes. The dominance of action targeting legislative changes applies both to unions and employers' associations. In addition, trade unions and one of the employers' associations launched debates over concluding a sector-wide collective

⁹¹ Ibid.

agreement for the TAW sector. Although the fundamental ideas of social partners about the aim and extent of regulation via collective agreement differ, this is a major development in a previously unorganized sector.

Implications of union and employer approaches to addressing precarious work do suggest a divergence with unions aiming to reduce TAW and employers aiming to expand it due to the growing attractiveness of TAW as a form of flexible employment while other forms of flexible work have been to great extent regulated or eliminated. Finally, in a procedural perspective on industrial relations, first attempts to establish bargaining institutions in the context of overall declining bargaining coverage, with weak representation at both employers and trade union sides, and decentralization trends in CEE labour markets, is a unique sector-specific development in the region.

3. Comparative analysis and conclusions

This study reviewed the most recent post-crisis developments in labour market dualization, namely, in incidence and forms of precarious employment. Besides documenting particular forms of precarious work across five sectors, the study reviewed initiatives taken by social partners – trade unions and employers’ associations – related to precarious forms of work. This concluding section reflects on the distinct developments in each sector, with the aim of addressing the drivers of precariousness and identifying the effects that initiatives of sector-level social partners produced.

3.1 Cross-sector comparison

The sectoral findings, summarized in Table 30, suggest that each sector found its own distinct way to address its rising demands for employment flexibility – with implications for precariousness in diverse employment forms. The TAW sector underwent fundamental legislative changes, which made employment in this sector converge around a standard employment relationship, but opened new dimensions of precariousness related to contract length, termination notice and non-observance of rules by establishing a system of alternative payments. In the construction sector, self-employment became an inherent feature of supplier relationships, next to flexibilization of regular employment through project-based fixed-term contracts and the use of flexikonto. These forms of work have intensified in the post-crisis years of declining construction activity after a decade of construction boom. In healthcare, standard employment relationships instead of flexible and precarious alternatives dominate in hospital work. However, recent trends in wage demands increased the vulnerability of particular occupational groups to work reorganization, non-observance of rules in terms of pay, and threats of dismissals. In the metal/automotive industry, flexibility and thus dualization were fuelled by changes in product market on the one hand, and the producers’ attempt to maintain a skilled workforce base even in times of downturn, on the other hand. This facilitated an increase use of flexikonto for permanent workers and an increased demand for TAW. Finally, in the retail sector precarization does not relate to job insecurity, due to a high labour force fluctuation especially in Western Slovakia, but to generally low wages and internal flexibility through irregular working time organization and abuse of legal working time stipulations.

Comparing the above findings, we conclude that in TAW and construction, precariousness has evolved around the external flexibility dimension of employment. In other words, flexible hiring and firing, and related debates over the length of contracts, subsequent numbers of fixed-term contracts, or working conditions of the

Table 30 Summary of main developments in sectors and social partner responses - Slovakia

Sector	Main developments since 2008			Responses to precarious employment		
	Labour market dualization trends and reasons	Forms	Dimensions	Unions	Employers	Other/additional specific developments/initiatives
Construction	Dualization along job security: regular employment contracts vs. increasing self-employment, project-based fixed-term employment. Driver: crisis-induced business insecurity after a period of construction boom	Project-based work Flexikonto Self-employment (not perceived by social partners as bogus self-employment)	Type of employment contract – from permanent to more precarious forms; irregular working time; working time accounts (flexikonto) – uncertain workload, wages, overtime	Rationale: foster equality between different types of contracts Approach: inclusive Instruments: legislative, political lobbying, coll. bargaining Implications: - <i>for precariousness:</i> reducing precariousness (elimination of precarious dimensions within existing types of contracts) - <i>for social dialogue:</i> strengthening established (coordinated) bargaining procedures; maintaining constructive soc. dialogue	Rationale: moral/regulatory considerations, elimination of unfair practices Approach: inclusive Instruments: legislative, political lobbying, coll. bargaining Implications: - <i>for precariousness:</i> reducing precariousness within existing types of contracts, but not reducing flexibility - <i>for social dialogue:</i> strengthening established (coordinated) bargaining procedures; maintaining constructive soc. dialogue	Union initiatives: focus on legislation but bargaining (sector and company-level) still important; suggestion to limit the share of self-employed on contracts in public procurement Employer initiatives: legislative focus on health and safety for self-employed
Healthcare	Dualization along wages: Dual hospital structure; post-crisis austerity intensifies wage divergence; Drivers: hospitals seeking efficiency and flexibility to decrease/avoid debts, cover staff shortages	Elements of precariousness increasingly emerge within full-time open-ended contracts; other flexible/precarious employment forms marginal	Low wages (especially for nurses and other healthcare staff except doctors) Working time – overtime Work organization	Rationale: efficiency – offer better healthcare service; equality in employment Approach: inclusive Instruments: information campaign, media debates, protests, political lobbying, coll. bargaining, mobilization of (potential) members Implications: - <i>for precariousness:</i> elimination; but union	Rationale: economic and organizational considerations – hospital efficiency Approach: diverse, company-specific; individual decisions – separation and exclusion Instruments: bargaining, legislative pressures Implications: - <i>for precariousness:</i> elimination, but individual employer responses imply	Trade unions: resignation campaigns and public protests most powerful instruments Employers remain responsive not proactive; union action targets the government more than employers (hospitals and hospital associations)

	<p>through overtime work</p> <p>Dualization: stable full-time employment vs. increasing need for flexibility after the crisis. Dualization becoming weaker, general shift towards more internal flexibility also within full-time employment contracts</p>	<p>Flexikonto – working time accounts within full-time employment contracts</p> <p>Increased use of TAW</p>	<p>Working time unpredictable, overtime payments not always applicable, work-life balance affected through working time accounts, income and pay insecurity (low pay is not a relevant issue in metal, instead, the unpredictability of work and thus regular income) TAW – many initiatives to equalize the rights of TAW to regular employees, still differences apply – e.g. lack of bargaining coverage, lack of entitlements to benefits, abuse of TAW by agencies</p>	<p>action also contributed to increase in precariousness</p> <p>- <i>for social dialogue:</i></p> <ul style="list-style-type: none"> weakening role of bargaining, lower bargaining coverage, focus on public action and legislation <p>Rationale: equality in diverse employment forms when the work done is the same</p> <p>Approach: from separation (early post-crisis years) to exclusive approach (special union attention devoted to agency workers)</p> <p>Instruments: consultations and negotiations with employers, focus on legislation; also political lobbying and collective bargaining (sector and enterprise level)</p> <p>Implications:</p> <ul style="list-style-type: none"> - <i>for precariousness:</i> reduction through pressures on better regulation (maintain union co-determination rights on flexikonto, no increase to the flexikonto periods, etc). - <i>for social dialogue:</i> reinforcing the role of SD and bargaining, still important even if the focus is strongly towards
	<p>rather expansion in precariousness</p> <p>- <i>for social dialogue:</i></p> <ul style="list-style-type: none"> bargaining decentralization, weakening sectoral bargaining, declining bargaining coverage 	<p>Rationale: economic (adjustments to economic downturns), institutional (anchor the regulation of flexibility in labour law), social (avoid dismissals) and organizational (high flexibility and access to skilled workers also in periods of growth and tight labour markets)</p> <p>Approach: inclusive</p> <p>Instruments: same as trade unions</p> <p>Implications:</p> <ul style="list-style-type: none"> - <i>for precariousness:</i> expansion of precariousness through expansion of flexible work forms - <i>for social dialogue:</i> reinforcing the role of SD and bargaining, still important even if the focus is strongly towards legislative regulation 	<p>Employers' inclusive approach developed in response to the crisis, where employers do not treat workers in flexikonto or TAWs exclusively, but rather would prefer to see the whole workforce in flexible working time schemes</p> <p>The metal sector is well regulated – both through collective bargaining (not covering TAWs) and through legislation – improvements through social partner initiatives towards less precariousness in the post-crisis period, especially for TAWs</p>	

Metal (automotive)

	access to company-level benefits at end users hiring agency workers; lack of bargaining coverage	entitlements –prohibited by law for TAW after 2011	lacking access of agency workers to social benefits applicable to standard employees working in the end user company; lacking interest representation and bargaining coverage	bargaining on behalf of TAW Implications: - <i>for precariousness:</i> reduction – achieved via recent legislative changes - <i>for social dialogue:</i> emerging bargaining institutions in a previously unorganized sector	ties, emerging relevance of collective bargaining on behalf of TAW Implications: - <i>for precariousness:</i> attempt at expansion of TAW in a regulated environment - <i>for social dialogue:</i> emerging bargaining institutions in a previously unorganized sector	precariousness in TAW
National level – general trends	Along job security and low pay dimensions	Standard full-time jobs versus more flexible contract forms and internal flexibility	Job security Low wages Working time abuse	Elimination/reduction of precarious work, foster more employment stability and higher wages	Seek more flexibility but also commitment of skilled workforce (especially in sectors with labour shortages)	Legislative initiatives increasingly more important than collective bargaining about dimensions of precariousness in working conditions

self-employed, dominated the recent initiatives in these two sectors. In contrast, in healthcare, metal and retail, external flexibility through job insecurity is less prominent, and precariousness demonstrates itself through internal forms of flexibility. This is illustrated by working time re-organization, increasing workload, changing work content, often coupled with the issue of low pay (especially in the retail sector).

The most important drivers for increased flexibility and precariousness include (international) competition and the crisis (in metal, TAW and construction sectors), the government policy including public procurement (construction) and post-crisis austerity measures (healthcare), as well as the government's openness to social partner influence on legislation. The source of diversity in precarious work forms derives from legislation, which continues to serve as the most important resource for governing the existing employment forms. The long-term trend of flexibilizing the Labour Code facilitated the institutionalization of a wide range of flexible employment forms. This 'basket of choices' allowed employers in each sector to find the best tailor-made solution within the framework of existing legislation. The initiatives of social partners contribute to the sustainability of this model, because they target particular flexible employment forms in the respective sectors (Kahancová and Martišková 2015). In consequence, a convergence in the number and types of alternative and precarious employment forms does not occur; and a variation of legally stipulated alternatives of (precarious) employment forms persists.

The influence of EU-level policies did not directly turned out to be an important driver of precariousness. Neither did it facilitate particular social partner responses to shaping precarious work forms. EU-level policies are channelled through national legislation. The most important, albeit marginal, case of EU-level influence on precarious work was the implementation of the Working Time directive and its relevance for working conditions in healthcare.

3.2 Precariousness and industrial relations

Established sector-level industrial relations structures are an important factor in channelling the forms and dimensions of precarious work. As already noted, social partner initiatives helped reinforcing the dominant forms of precarious work in each sector. Thereby they contributed to the sustainability of diverse forms of flexible employment rather than their convergence towards a few widely used employment forms.

Social partner strategies helped shaping working conditions and thus affected precariousness in construction, healthcare, metal and TAW – mostly through legislative initiatives, but to some extent also through collective bargaining (especially in metal and TAW).

Social partner responses to precarious work also yielded implications for the existing structures of social dialogue and collective bargaining (see Table 30 above).

Social partner responses to precariousness that derived from long-term relations (in construction and metal/automotive) or in response to recent developments in the sector (TAW) produced shared perceptions and joint initiatives to address precariousness. These are examples of best practices where social partners – despite different attitudes towards the need for flexibility and forms of flexibility – managed to form shared interests around regulating precariousness. In contrast, the established industrial relations structures in healthcare did not help producing joint initiatives on precarious work. Instead, the diverging interests among unions on the one hand and employers on the other hand increased occupational cleavages between doctors, nurses and other healthcare personnel. Next, trade union wage claims in healthcare and employer responses thereto, contributed to a further fragmentation of industrial relations structures and a weakening influence of collective bargaining, which is gradually crowded out via legislative regulation. The latter is demonstrated by the fact that wage demands of the largest occupational groups – doctors and nurses – have been excluded from sector-level collective bargaining and replaced by legislative regulation. Finally, in retail, long-term cooperation between employers and trade unions exists, but did not facilitate particular joint initiatives regarding precariousness and flexibility.

‘Best practices’ helped to facilitate a clearer formulation of social partners’ demands for regulating precarious employment forms (but not reducing the institutionalized forms of alternative employment). In turn, this contributed either to sustainability of existing industrial relations structures (construction, metal) or helped laying the foundations of new industrial relations structures (TAW). In contrast, the lack of ‘best practices’ shows that despite trade union efforts to improve working conditions (healthcare), the effect has been further precarization, cleavages among occupational groups, fragmentation of industrial relations, declining bargaining coverage, and crowding out of traditional industrial relations channels of influence through new forms of trade union action. Finally, in the retail sector, social partner responses did not significantly influence bargaining structures in positive or negative way.

3.3 Policy relevance

This study confirms earlier findings of Kahancová and Martišková (2015) that although industrial relations played an important role in addressing precarious work in some of the studied sectors, their relevance is closely dependent on the legislative channel of influence. The majority of social partner initiatives and joint efforts to regulate and influence precarious work did not take place through sector-level industrial relations, but through social partners’ efforts to shape national-level

legislation. This confirms an excessive strength of the legal resources for the operation of industrial relations institutions and for the role of sector-level social partners in present and future initiatives on precarious work. In Slovakia, social partners actively contribute to reinforcing the key role of legislation for employment regulation.

Some of the purposeful and unintended initiatives of social partners actually did contribute to further labour market dualization/segmentation. The dualization concerns working conditions, employment protection and the quality of jobs of a core labour force on the one hand, and the peripheral labour force working in precarious employment forms on the other hand. The core labour force refers to employees in secure job positions, where dimensions of precariousness intensified through internal flexibility and low pay (working time reorganization, flexikonto, overtime, work load increase). The peripheral labour force refers to workers exposed to external flexibility through more flexible contract forms (fixed-term contracts, TAW, work agreements), often coupled with internal flexibility dimensions (low pay and social security contributions and irregular working time). The greatest step forward, stimulated by social partner initiatives, against growing precarization has been achieved in TAW. This sector has seen a particularly high number of legal changes in the post-crisis period attempting to equalize the working conditions of TAW with regular employees.

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