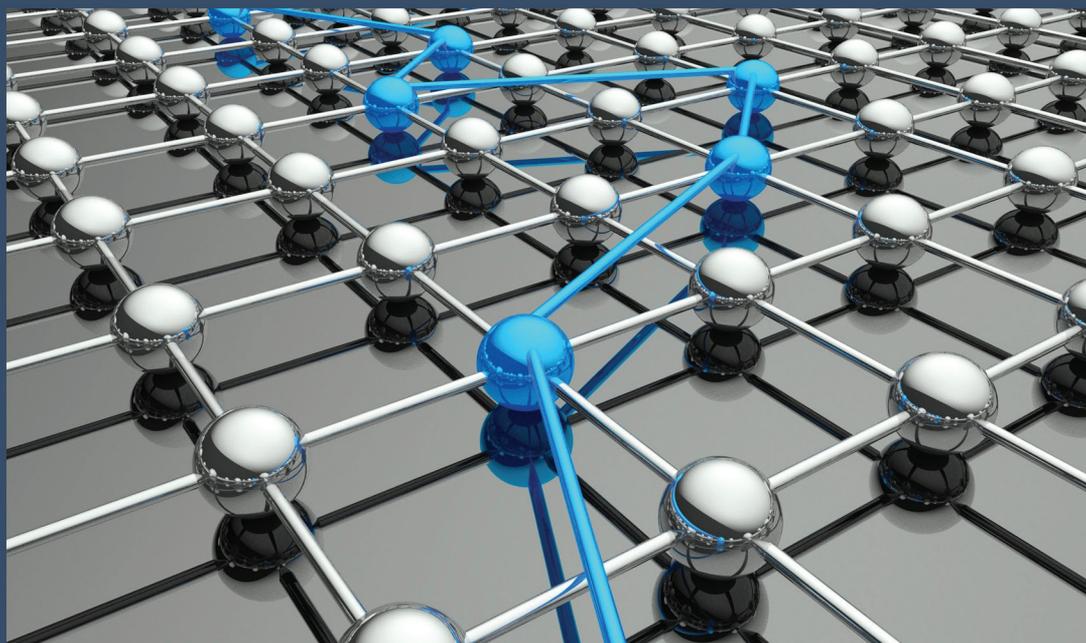


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NONSTANDARD WORK IN CROATIA: CHALLENGES AND PERSPECTIVES IN SELECTED SECTORS



Hrvoje Butković and Višnja Samardžija
in cooperation with
Ivana Skazlić and Ivana Čavar

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NONSTANDARD WORK IN CROATIA:
CHALLENGES AND PERSPECTIVES
IN SELECTED SECTORS

FOREWORD

8

Croatia was heavily impacted by the economic crisis, which resulted in a significant increase in non-standard or contingent employment and unemployment. The crisis accelerated some negative trends within the Croatian system of industrial relations, such as fragmentation of the trade union scene; weak social dialogue at the sectoral level; decentralization of collective bargaining; concentration of trade unions in the public sector; inadequate human capacities of the social partners; and weak results of tripartite consultations. Therefore, in Croatia, as in other new EU member states, the social partners face numerous systemic problems which diminish their ability to effectively resolve the growing number of challenges.

This study is the final result of work on the EU-funded research project which addressed developments in the area of non-standard work in nine new EU member states and in Greece. The publication is issued in English with the supplement of the executive summary, which is given in both English and Croatian. This is an updated version of the study which was first published in April 2016 by the Central European Labour Studies Institute in Bratislava as CELSI Research Report No. 15, titled "PRECARIR Country Report: Croatia".

The authors are grateful to all social partners and experts who gave the interviews which made this study possible. Sincere gratitude also goes to the reviewers for their useful comments on the first draft of the text, which greatly improved the quality of this publication.

Hrvoje Butković
Višnja Samardžija

EXECUTIVE SUMMARY

About the project

This publication is a result of the EC-funded project “PRECARIR—the rise of the dual labour market: fighting precarious employment in the new member states through industrial relations”, grant no. VP/2014/004/0066, which was implemented between December 2014 and September 2016. The PRECARIR project was coordinated by Dublin City University (DCU) in partnership with seven other European research institutions. IRMO was one of the project partners covering the implementation of its activities in Croatia. The research encompassed ten EU member states: Croatia, Czech Republic, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. PRECARIR analysed the role of established industrial relations institutions in addressing the changing labour market and, in particular, the growth of precarious work in the EU. It explored how the strategies of employers and trade unions across selected EU member states represent the interests of non-standard and vulnerable groups in precarious employment forms.

The project focused on developments in four predominantly private sectors (metal industry, retail trade, construction and agency work) and the healthcare sector, which is largely part of the public sector. However, this study focused on agency work as part of the other four sectors, due to limited activities of Croatian social partners in that particular sector. The research in Croatia as in other countries addressed the period since 2008. Concerning the methodology, the first stage in composing the study was a desk research, which included analysis of statistical data

on non-standard work and the available literature, legislation, collective agreements and information from websites and media sources. In the next stage, the analysis was supplemented with findings from the qualitative in-depth interviews. For the purpose of project implementation in Croatia, three semi-structured questionnaires were developed (for employers, trade unions and experts). Each of them addressed the general issues of the project and some particularities of the Croatian labour market. Sixteen interviews based on the semi-structured questionnaires were conducted with representatives of Croatian social partners in selected sectors, as well as with other relevant stakeholders. After finalization of the national studies, the project coordinator and the partner from Slovakia made a comparative research analysis of all country findings.

Background of the study

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Croatia was strongly hit by the economic crisis and currently the economy is experiencing a slow recovery from a prolonged, double-dip recession, which lasted for six continuous years. Croatia is facing one of the lowest labour market participation rates among EU countries, which particularly affects young people. The unemployment rate in 2014 was a staggering 17 per cent. In 2015, it decreased to 16.3 per cent, which is related to economic recovery but also to migration (particularly of some professions) to other EU member states. In 2008, Croatia introduced a minimum wage (322 EUR net in 2014) which is calculated by using the average wage indicator and the GDP rates in the previous year. Since 2008, at the national level there has been no decrease in the average monthly net earnings (734 EUR in 2013). However, in the construction and metal industries, some oscillations have been recorded. The economic crisis has intensified the growth of non-standard or precarious employment in Croatia. Non-standard workers were the first to lose their jobs after the crisis struck. However, when the companies started to hire again, the numbers of non-standard workers among the newly employed were much greater than before the crisis.

Fragmentation of the trade union scene and unity of employers represent an important characteristic of industrial relations in Croatia. Weakening of the social dialogue as an instrument in policy making can be observed as a consequence of the economic downturn. The government frequently engaged in unilateral decisions, while the focus of collective agreements shifted from wages and other material rights to maintaining employment. Decentralization of collective bargaining could also be observed, because there is a growing trend of concluding company level agreements combined with a reluctance to conclude new sectoral

agreements. However, Croatia still has a comparatively high trade union density of some 30 per cent, while coverage of collective agreement is around 40 per cent.

Form and share of non-standard work

Since the outbreak of the crisis, Croatia has introduced additional flexibility into its labour legislation. The most important of these changes were implemented in 2014 through the new Labour Act which relaxed the rules on the use of fixed-term and agency work, improved the regulation of part-time work, and introduced the institutions of the additional employment contract, unequal working hours schedule and posting of workers. These changes reduced the employment protection legislation index from 2.55 to 2.28. However, changes primarily concerned non-standard types of employment, which contributed to further segmentation of the Croatian labour market, deepening the gap between well protected workers on standard contracts and other workers who increasingly face uncertainty.

The most widespread form of non-standard employment in Croatia is fixed-term work (16.9 per cent in 2014). In 2015, more than 95 per cent of all new employment in the country was reserved for fixed-term work, which overshadows all other forms of non-standard employment. Furthermore, some categories of workers (such as youth) were disproportionately affected by the increase in fixed-term employment. Research on the specific sectors that form the focus of the project shows that in Croatia, since the outbreak of the crisis, fixed-term work increased in the construction and metal industries, while in the retail sector, it is stagnating. In public healthcare, fixed-term work has decreased due to staff shortages and the relatively mild impact of the crisis on the public sector. Part-time work is still marginally applied, but since 2008 its utilization has increased in the retail sector and construction.

Temporary agency work in Croatia is mostly present in the food industry and in telecommunications, but on average it is less frequent than in most other EU member states. This type of work is also concentrated in low-skills jobs, while the proportion in high-skills jobs is marginal. The contracts of agency workers are almost exclusively fixed-term, which makes them highly precarious. The average duration of a temporary agency contract is 11 months, but this is only an average figure and variations in the duration of contracts are significant. The reason for the low spread of agency work could be the relative scarcity of foreign investment in production facilities, which usually generates this kind of employment. It should, however, be noted that since the outbreak of the crisis, agency work has found itself in an increasing pattern, like most other forms of

non-standard work. In our four sectors, agency work can marginally be found in the metal industry, in retail and in healthcare, mostly in non-core services such as cleaning and security.

Self-employment could be found in the construction and the metal industries, but not in retail and public healthcare. The number of self-employed accounts for about one third in the post-2011 period. This could be explained by the length of the crisis, which forced many such workers into bankruptcy due to illiquidity, which increased with the crisis and represents a systemic problem in the Croatian economy. Bogus self-employment is difficult to detect in the Croatian labour market, but in all likelihood it is marginally present in construction and the metal industry.

Student work is a special form of work which, in Croatia, represents work outside the employment relationship. Since the outbreak of the crisis, the presence of such work has increased in the retail sector, which has had negative repercussions on the prospects of employed workers. Since 2010, all the observed sectors, except construction, use occupational trainees. These trainees are mostly young university graduates who receive the opportunity to obtain one year of working experience in order to enhance their future employment chances. The salaries and contributions of these trainees are covered from the European Social Fund, which makes them very popular among employers.

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Attitudes of social partners

The crisis had different impacts on the four selected sectors forming the focus of this study. The construction sector in the post-2009 period experienced a sharp decline, which was reflected in a fall in employment of more than 40 per cent. In comparative terms, the metal industry was not as severely hit due to its export orientation and high capital intensity. The economic crisis also had a negative effect on the retail sector due to reduced demand. Compared to 2008, the turnover in the sector in 2014 was reduced by 12.4 per cent. Finally, being part of the public sector, healthcare was shielded from the severe impact of the crisis and did not experience the wave of dismissals that swept numerous other sectors, primarily in private ownership.

Social partners in Croatia have adopted different approaches to dealing with non-standard or precarious work, confronted with the reality of its constant growth. The general strategy of the trade unions has always been aimed at reducing the proportion of non-standard or precarious work in the Croatian labour market. Employers, on the other hand, argue that increased flexibility is needed for uninterrupted business activities and that not following the European and world trends in that respect

makes Croatia less competitive. The study documented that the sectoral trade unions in all four sectors aimed to reduce non-standard employment and promote standard employment. However, in pursuing this goal, they adopted different strategies. Based on the research results in Croatia, it can be concluded that the sectoral trade unions in construction and public healthcare chose the strategy of inclusion of non-standard workers. This implies non-differentiation between standard and non-standard workers in collective bargaining, political lobbying, consultation activities, etc. In the construction sector, the choice of this rather traditional strategy can be explained by the devastating impact of the crisis on the sector, which dictates other priorities for the trade unions and compels them towards close cooperation with the employers. In public healthcare, the chosen strategy of inclusion is a result of a comparatively small number of non-standard workers in addition to internal conflicts between sectoral and professional trade unions.

In the metal industry and in retail, the research results indicate that the sectoral trade unions adopted mixed strategies towards non-standard workers which combine the elements of inclusion (non-differentiation) with those of separation (treating such workers as a particular group). The separation elements in the strategy of the metal industry trade union relate to the practice of inscribing limitations on the number of non-standard workers in many of its company level collective agreements. On the other hand, in the retail sector, the separation elements primarily concern the practice of inscribing at the company level collective agreements giving priority status to fixed-term workers in case of new hiring on standard (open-ended) contracts.

Croatian employers have the goals of preservation of the status quo and further expansion of non-standard employment. However, as presented in the study, while such typical perceptions are dominant among employers in the metal industry and in retail, the situation is different in construction and public healthcare. In the latter two, employers generally comply with the pursued trade union inclusion strategies. In the construction sector, the reason for such behaviour can be found in pressing problems which social partners share with the informal economy and unfavourable public procurement rules. In public healthcare, on the other hand, the inclusion strategy is being followed due to severe shortages of qualified workers.

Conclusion

Since 1996, Croatia has changed and amended its Labour Act on numerous occasions. The Labour Act represents the most important legisla-

tive act governing the employment relationship in the country. Most of these changes have had no significant impact on the flexibility of the Croatian labour market, as they have related primarily to harmonization with the EU acquis, which marginally addresses this issue. However, the EU accession process has continued to direct Croatia towards greater labour market flexibility, because the European Commission frequently criticized the perceived rigidity of the country's labour market. The flexibility-related changes in the Labour Act have always been introduced upon the initiative of the government. Nevertheless, the social partners actively participated in the introduction of these changes, often by expressing quite opposing and conflicting views.

These legislative changes, combined with the severe impacts of the crisis, resulted in a significant increase in non-standard work in the Croatian labour market. Social partners in the selected sectors analysed in this study have taken different approaches to non-standard workers. Despite this, the study concludes that, in the observed sectors, the social partners in Croatia are just initiating the process of formulating more innovative and lasting approaches towards non-standard employment. The strategies so far could be described mostly as short-term responses which will need to be further developed. This is a challenge primarily for the trade unions, for whom, in light of their falling membership, the right approach towards non-standard workers represents an issue of crucial significance. Therefore, in the long run, the trade union strategies of addressing non-standard work need to amplify the current focus on collective bargaining by providing clear strategic guidelines for actions towards public authorities and the employers.

LIST OF ABBREVIATIONS

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

BCA – Basic Collective Agreement

CBS – *Croatian Bureau of Statistics*

CCE – *Croatian Chamber of Economy*

CDT – Croatian Doctors' Trade Union

CEA – Croatian Employers' Association

CEMEKO – Centre of the Metal Industry Competences at Đuro Đaković

CES – Croatian Employment Service

CNB – Croatian National Bank

CTA – Croatian Trade Union Association

CTUC – Commercial Trade Union of Croatia

CTUNMT – Croatian Trade Union of Nurses and Medical Technicians

EDP – Excessive Deficit Procedure

ESC – Economic and Social Council

GRC – Government of the Republic of Croatia

ITUC – Independent Trade Unions of Croatia

MACT – Association of Croatian Trade Unions (MATICA)

MTUC – Metalworkers' Trade Union of Croatia

NOC – National Occupational Classification

NRP – National Reform Programme

PPC – Purchasing Power Standard

RC – Republic of Croatia

STUH – The Autonomous Trade Union of Tourism and Services

TAWs – Temporary Agency Workers

TUCIC – *Trade Union of Construction Industry of Croatia*

UATUC – Union of Autonomous Trade Unions of Croatia

UITUC – Union of Independent Trade Unions of Croatia

WDTU – Waste Disposal Trade Union in Zagreb Holding Ltd

INTRODUCTION

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This study is the result of the PRECARIR EC-funded project,¹ which examines the phenomenon of non-standard or precarious work in nine new EU member states and in Greece by applying a common methodology. The aim of the PRECARIR project was to explore how the strategies of employers and trade unions across 10 EU member states represent the interest of non-standard and vulnerable groups in precarious employment forms in the labour market, and how the needs of these groups are addressed in the process of collective bargaining and other initiatives by the social partners.

The aim of this study is to examine the rise of the dual labour market and the growth of non-standard or precarious work in the post-crisis period in Croatia.² The analysis is targeted on the activities of the trade unions and the employers that deal with non-standard work in all of its different manifestations. In focus are five sectors covered by the PRECARIR project, namely the metal industry, health care, construction, retail and temporary agency work, as sectors that were heavily influenced by impacts of the economic crisis. The study on Croatia researches

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

2 The nonstandard work is often considered to be precarious. This is because it frequently implies low income and job security, unfavourable working conditions, minimal access to training, limited access to social security systems as well as limited possibility for expressing the worker's voice (Keune, 2013, p.60). However, nonstandard work and precarious work are not the direct synonyms. When nonstandard work represents the conscious choice of a worker, it cannot be considered precarious. Similarly, even standard employment can be considered precarious, in case of very low salaries, belated payments, unpaid overtime work etc. (Keller and Seifart, 2013).

agency work as part of the other four sectors, due to the limited activities of Croatian social partners in that particular sector. This research was carried out by IRMO researchers and was finalized in April 2016.

The economic crisis in Europe had a profound impact on the national labour markets. The gap between well protected workers on standard contracts and non-standard workers who face increased uncertainties continues to grow. Furthermore, the number and variety of non-standard work has risen, particularly in Central, Eastern and Southern Europe, where atypical work has become a prominent feature of the labour markets. In such circumstances, social partners are faced with the need to adjust their activities and strategies to new labour market realities. This particularly concerns the trade unions, who are being increasingly marginalized due to often unilateral decisions by the governments and a growing trend of membership loss.

The rise of non-standard or precarious work in Croatia was primarily driven by the transition to a free market economy that meant that employers were required to constantly adapt to new market circumstances. The economic crisis and structural weaknesses of the economy further intensified the need to introduce more flexibility on the labour market in order to address the rising unemployment. Finally, an important driver for greater flexibility was the EU accession process. During this process Croatia aimed to implement measures to overcome the rigidity of its labour market, which was seen as an obstacle to growth and employment.

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

In terms of the economic context for the development of non-standard or precarious work, it should be noted that Croatia was strongly hit by the

crisis after 2008 and currently the economy is experiencing a slow recovery from a prolonged, double-dip recession, which lasted for six years continuously. The GDP annual growth rates contracted significantly from relatively stable figures in the years before the crisis (the highest growth in the last 10 years was 5.2% in 2007). The GDP growth had the strongest negative change in 2009 (-7.4%) and the economy further contracted, in year-on-year terms, in 2014 by -0.4% (Eurostat, 2016e). In 2013, Croatia's GDP per capita according to PPS represented 61% of the EU28 average, which was below all PRECARIR countries except Romania (Eurostat, 2016f).

Finally, the year 2015 showed the first positive trends in the Croatian economy and signalled that the recession was over. The GDP expanded by 1.6% in 2015, as the contraction in domestic demand stops and exports continue to grow. Overall, the economy is set to grow at a rate of 1.8% in 2016, and slightly further accelerating in 2017. However, the general government debt-to-GDP ratio continued to grow. It increased moderately in 2015 to 86.7%. The public debt is expected to peak at 87.6% of GDP in 2016 and to decline slightly in 2017 (European Commission, 2016, pp. 86-87).

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

The country is facing one of the lowest labour market participation rates in the EU, which particularly affects young people (see Table 1).³ Besides high unemployment and low labour market participation, the inadequacy of social benefits and services contributes to high levels of poverty and social exclusion (European Commission, 2015a, p.66).⁴ The EC scoreboard for the key employment and social indicators places Croatia together with Greece, Cyprus, Portugal, Spain and Italy within a group of countries facing substantial social challenges (European Commission, 2015c).

Negative economic trends during and after the crisis resulted in unfavourable developments on the labour market. Weak labour market performance still continues to be a challenge. According to Eurostat (2016v),

3 Besides unemployment the main reasons for the low market participation of the population of working age is early retirement, followed by education (Tomić, 2015, p.25).

4 The right to monetary remuneration of an individual who has lost their job and become unemployed is granted for a period of at least 90 and at most 450 days. For the first 90 days of unemployment the remuneration is 70% of the salary base and for the rest of the time 35% (Bejaković, 2015, p.115).

employment grew slightly in the period before the crisis; it recorded continuous negative trends after 2008 (64.9%), reaching a bottom level of 57.2% in 2013, while in 2014 a slight recovery began (59.2%).⁵

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

	2008	2009	2010	2011	2012	2013	2014	2015
Labour market participation								
Employment rate	64.9	64.2	62.1	59.8	58.1	57.2	59.2	60.5
Employment growth	3.80	-0.70	-3.80	-3.90	-3.60	-2.60	2.70	-
Unemployment rate	8.60	9.20	11.70	13.70	16.00	17.30	17.30	16.30
Long-term unemployment rate	5.30	5.10	6.60	8.40	10.20	11.00	10.10	10.30
Youth unemployment rate (less than 25 years)	23.70	25.20	32.40	36.70	42.10	50.00	45.50	43.00
Activity rate (15-64 years)	65.60	65.50	65.30	63.70	63.10	64.10	66.30	66.70
Young people not in employment, education or training (15-24 years)	11.60	13.40	15.70	16.20	16.60	19.60	19.30	18.50
Poverty and social exclusion								
People at risk of poverty or social exclusion	-	-	31.10	32.60	32.60	29.90	29.30	-
At-risk-of-poverty rate	17.30	17.90	20.60	20.90	20.40	19.50	19.40	20.40
Severe material deprivation rate	-	-	14.30	15.20	15.90	14.70	13.90	13.80
People living in households with very low work intensity (less than 60 years)	-	-	13.90	15.90	16.80	14.80	14.70	14.60

Source: Eurostat 4.7.2016 (compiled by the authors)

According to Eurostat (2016r), Croatia continuously recorded high unemployment rates with growing trends between 2009 (9.2%) and 2013 (17.3%). However, a reverse trend became visible in 2015 when the unemployment fell to 16.3%. According to the EC Spring Forecasts the unemployment is expected to continue falling to 15.5% in 2016 and 14.7% in 2017 (2016).

5 A decrease in employment was mostly felt in the private sector. In the period between 2008 and 2014, employment in the business sector decreased by 15%, while in crafts and free professions it was 25%. On the other hand, in the public sector there was a 3% increase in employment (Tomić, 2015, p.34).

As a comparison it could be mentioned that among the PRECARIR countries only Greece recorded stronger unemployment growth and reached a higher unemployment level (27.3% in 2013). Additionally, the Eurostat data (2016s) show that Croatia is among the EU countries with the highest youth unemployment (15–24). It has been rising since 2008 (23.7%) and it reached the highest level of 50% in 2013 (one half were long-term unemployed), while positive signs became visible in 2014 (45.5%).⁶ This is the result of various measures implemented to address youth unemployment, some of which are part of the Youth Guarantee Implementation Plan.⁷ Among the PRECARIR countries only Greece recorded higher, but also decreasing levels of youth unemployment (52.4% in 2014).

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

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6 Out of all new EU member states the unemployment rates of women remain particularly problematic in Croatia and Slovakia (European Commission, 2015c, p.13).

7 The Youth Guarantee Implementation Plan contains a complete description of reforms and measures to be implemented in order to facilitate the transition of young persons from the education system to employment, and to establish a system of Youth Guarantee.

PRECARIOUS WORK IN CROATIA

PRECARIOUS WORK IN CROATIA

Legal developments

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Gradual increase of flexibility in the Labour Act

The Labour Act (OG 93/14) is the most important legislative act governing employment in Croatia in its various forms, including non-standard employment.⁸ The normative regulation of employment is supplemented by the provisions of numerous additional acts, which have employment-related implications and mostly concern the functioning of the state and public services. The current Labour Act is an extensive piece of legislation consisting of 235 articles dealing with issues such as individual employment relations, collective employment relations and participation of

8 According to the current Labour Act (OG 93/14), the standard employment contract is a full-time open-ended contract (40 hours per week). Social security and health-care contributions are paid by employers. The pension system provides a pension for all workers that reach retirement age and that have paid contributions for more than 15 years. Since 2008, the minimum wage has been set by the law and it is calculated by using the average wage indicator and the GDP rates in the previous year (322 EUR net in 2014). The dismissal period is between two weeks and three months depending on the time spent with the employer. Holiday entitlements are four to six weeks per year according to the employee's age and the period worked. A woman has a right to maternity leave during her pregnancy and childbirth, 45 days before the expected date of childbirth, and may remain on such leave until her child is one year old. After the expiry of mandatory maternity leave (28 days before birth until the child is 6 months old), the right to paternity leave can be given to the child's father. The average monthly paid off net earnings at the national level and in different sectors are available in Tables 2 and 3.

employees in decision-making etc. In the past, a division of the Labour Act into the Act on Labour Relations and the Act on Collective Labour Rights has been discussed, due to the Labour Act's extensive character (Butković, Samardžija and Tišma, 2012, p.110).

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

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

The first Labour Act was introduced in Croatia in 1996 and since then it has been changed or amended six times. In 2003, amendments to the Labour Act were introduced on employers' initiative and brought greater flexibility to the labour market. These changes were heavily criticized by most of the trade unions (Bagić, 2010, p.23).

The 2003 amendments introduced the institution of temporary agency work for the first time, which was considered to be the most important change. The amendments also introduced work from distant locations, which must be paid the same as work at the premises of the employer. The 2003 changes specified that salaries always need to be understood as gross salaries with all contributions, which was not welcomed by some employers (ibidem). The conditions for when a fixed-term contract can be used were relaxed, which resulted in an increase in fixed-term

employment from 2003 onwards (Interview with the Ministry of Labour, 2015). The salaries' accounting and severance pays were defined as foreclosure documents. Therefore, in cases when an employer fails to pay, this makes it easier for the employees to effectuate their rights. The notice periods in cases of regular dismissals continued to be linked to the length of employment with the same employer, but they were halved, from six to three months in cases of employment for longer than 20 years. Similarly, severance pay was limited to six average salaries at the maximum, unless otherwise prescribed by collective agreement (Babić et al., 2003). As a consequence of changes introduced in 2003 the employment protection legislation index was reduced from 3.58 to 2.76 (Bagić, 2010, p.226; Matković, 2013, p.93).

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

However, apart from harmonization with the *acquis*, the 2009 Labour Act contained very few genuinely new elements. Many commentators agreed that in 2009 Croatia missed the opportunity to introduce more substantial reform of its labour market and continued to lag behind other CEE countries in that respect (Bagić, 2010, p.229; Gotovac, 2010, p.15; Kunovac, 2014, p.2). In 2011, the Labour Act was also changed, but yet again with the sole purpose of completing the remaining harmonization with the

acquis (Novaković, 2013b, p.37). Therefore it is not surprising that the European Commission and international financial institutions indicated that Croatia's employment protection legislation envisages lengthy and complicated dismissal procedures (World Bank, 2011, p.3; European Commission, 2013, p.19).

As a response to the crisis in 2010 the government adopted its Economic Recovery Programme, together with a detailed activity plan (GRC, 2010a; 2010b). Changes in labour legislation are among the main elements of this programme and their aim is the creation of a more dynamic and flexible labour market with an increased labour force participation rate. Therefore, in early 2013 the Ministry of Labour and the Pension System initiated the process of adopting the new Labour Act, aimed at allowing greater flexibility on the labour market and at fostering new types of employment, in particular part-time employment, seasonal work and temporary agency work (Ministry of Labour RC, 2013). As with all previous changes to the Labour Act, the initiative came from the Ministry of Labour. The social partners were included in negotiations over proposed changes and they contributed to the quality of legislation by formulating their standings on proposed solutions.⁹ However, their positions were so polarized that finding the lowest common denominator on particular issues was extremely hard. The Ministry encouraged employers and the trade unions to formulate the arguments from the perspective of their opponent. Unfortunately, this approach, aimed at finding a minimal level of consensus, proved unsuccessful, because both parties found it very difficult to move away from their expected traditional standpoints (Interview with the Ministry of Labour, 2015). It is therefore hardly surprising that both the trade unions and the employers disagreed with the final version of the text.

For the employers, changes to the Labour Act were not courageous enough. They did not bring the desired level of flexibility that would allow a greater number of workers to enter the labour market and later on move from non-standard to standard employment (Interview with the CEA's Legal Department, 2015). Furthermore, the employers claimed that the changes were inappropriate for the depth of the economic crisis (Lisjak, 2014). As well as external flexibility the employers wanted legislation that would allow more inner flexibility at the company level. They complained that transferring workers, according to their qualifications, to different working places within the same company was very difficult (Novaković,

⁹ Representatives of temporary agencies were also consulted. They provided coordination within the Croatian Employers' Association, which expressed its views on the proposed legislation (Interview with the Adecco Croatia, 2015).

2013b, p.41). For the trade unions these latest changes were unnecessary because Croatian legislation was already harmonized with the EU *acquis*. The trade unions also claimed that the balance between flexibility for employers and protection for workers was disrupted for the benefit of the employers (Interview with the UATUC's Secretariat, 2015).

The changes initiated in 2013 were introduced in two phases. Firstly, in June 2013 some minor changes were made aimed at finalizing harmonization with the EU *acquis*. As a part of these changes, temporary agencies were allowed to carry out activities related to employment (in addition to co-signing) that simplified their work. Additionally, the agencies were obliged to regularly deliver statistical information on their activities to the Ministry of Labour (Novaković, 2013a). Secondly, after lengthy consultations with social partners in July 2014 the new Labour Act was adopted, introducing more substantial changes that reduced the employment protection legislation index from 2.55 to 2.28 (CNB, 2014, p.17).¹⁰ It could, however, be argued that the introduced changes only deepened the segmentation in the Croatian labour market, since they introduced further flexibility mostly to non-standard forms of employment, while standard forms of employment remained inflexible (Brkić, 2015).¹¹ The most important novelties of the new Labour Act were the following:

26

- *Unequal working hours schedule*

The employer is given the right to modify an employee's working hours according to the current work needs. In that case the employer must inform the worker of his pattern of working hours at least one week in advance. The limitations to the uneven working schedule are that it cannot last for less than a month or longer than a year,¹² and that the maximum time an employee can work should not exceed 50 hours a week or 180 hours a year, including overtime. Where the working time is unevenly distributed, the worker may not, in any period of four successive months, work more than 48 hours a week on average,

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

11 A similar conclusion was reached by Alka Obadić, who observes the situation on the Europe-wide level (2013).

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

including overtime. Longer working periods may be agreed in collective agreements, in which case work may not exceed 60 hours a week in any period of six successive months, or 250 hours a year (Art. 65-66).¹³

- *Total number of working hours*

The unequal distribution of working time under a collective agreement may also be regulated as the total number of working hours during the period of uneven distribution of working time. In that case there are no specific restrictions on working time, including overtime, except for the fact that the total number of working hours may not exceed an average of 45 hours a week within the four-month period (Art. 66).¹⁴

- *Fixed-term employment*

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

- *Part-time employment*

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

- *Additional employment contract*

A worker who works full-time with one employer (Article 61), or with more employers part-time, which overall makes full-time (Article 62), may conclude an additional employment contract with another employer to a maximum duration of 8 hours a week, i.e. up to 180 hours a year.¹⁵

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

14 This possibility was very much advocated by employers. However, so far there are only four collective agreements that adopted it (Interview with the Ministry of Labour, 2015).

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

- *Temporary agency work*

The Act introduced the possibility of arranging less favourable working conditions for agency workers than for regular workers by means of collective bargaining (Art. 46). The length of time for which a temporary agency worker can be employed doing the same type of work for a particular employer was extended to three years (Art. 48).¹⁶

- *Posted workers*

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

- *Period of notice*

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

28

- *Judicial cancellation of employment contracts*

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

- *Separate place of work*

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

¹⁶ The trade unions protested against making agency work more available, arguing that trends related to transferring agency workers into standard employment are not being monitored and that there is no support for such activity (Interview with the UATUC's Secretariat, 2015).

Table 2: Average monthly paid off net earnings according to NOC 2007. in HRK

Sector	2008	2009	2010	2011	2012	2013
Construction	4 397	4 412	4 380	4 430	4 442	4 446
Metal industry*	4 715	4 779	4 910	5 504	5 029	4 871
Retail trade	3 969	4 017	4 103	4 165	4 190	4 235
Public Healthcare	6 214	6 342	6 368	6 463	6 442	6 438
National level	5 161	5 271	5 329	5 429	5 469	5 507

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

Note* Manufacture of basic metals; manufacture of fabricated metal products, except machinery and equipment; manufacture of machinery and equipment; manufacture of motor vehicles, trailers and semi-trailers; manufacture of other transport equipment; other manufacturing; repair and installation of machinery and equipment (according to- NOC 2007)

Table 3: Average monthly paid off net earnings according to NOC 2007. in EUR

Sector	2008	2009	2010	2011	2012	2013
Construction	586.27	588.27	584.00	590.67	592.27	592.80
Metal industry*	628.67	637.20	654.67	733.87	670.53	649.47
Retail trade	529.20	535.60	547.07	555.33	558.67	564.67
Public Healthcare	828.53	845.60	849.07	861.73	858.93	858.40
National level	688.13	702.80	710.53	723.87	729.20	734.27

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

Note* Manufacture of basic metals; manufacture of fabricated metal products, except machinery and equipment; manufacture of machinery and equipment; manufacture of motor vehicles, trailers and semi-trailers; manufacture of other transport equipment; other manufacturing; repair and installation of machinery and equipment (according to NOC 2007)

Additional legislation addressing flexibility on the labour market

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

30

In 2012, the Act on Promotion of Employment (OG 57/12, 120/12) extended the circle of people who can benefit from the measure of occupational training without commencing employment, which first entered into force in 2010 by means of the Labour Act. The Act on Promotion of Employment prescribes that the State will pay the salaries and contributions for employers that train young people (under 35) with a university degree, who are able to acquire 12 months' work experience in this way (Art. 6). According to the same principle, salaries and contributions are paid by the State for young high school graduates in craft professions, for a period of 24 or 36 months. Since 2014 the measure of occupational training without commencing employment has been incorporated in the Youth Guarantee Scheme, which is financed from the EU's Social Fund.

Out of all new active labour market policy participants in 2014, 47.5% were covered by the measure of occupational training without commencing employment (see Table 4).¹⁷ In September 2014, the Croatian Employment Service lowered the eligibility criteria for participants and as of January 2015 their financial allowance was raised from HRK 1,600 (EUR

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

208) to HRK 2,400 (EUR 312).¹⁸ Therefore at the moment this financial allowance is roughly at the level of the minimum wage (EUR 322).¹⁹ The Act on Promotion of Employment also introduced the possibility of working for vouchers in agriculture (Art. 9-13), which allows daily work in that sector.²⁰

Table 4: Users of the measure of occupational training without commencing employment (2010–2015)

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

Source: Croatian Employment Service

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

18 See European Commission, 2015a, p.68.

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

20 Among the trade unions it is noted that since the introduction of this legal possibility the number of seasonal workers in agriculture has been drastically reduced (Interview with the ITUC’s Secretariat, 2015).

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

In order to diminish segmentation in the labour market, which particularly affects youth, in 2014 changes were also introduced to the Contributions Act (OG 143/14). According to these changes, an employer that employs a young worker (under 30 years) on an open-ended contract is freed from paying contributions to that worker's salary for a period of five years (Zuber, 2015).²¹

Form and incidence of precarious employment in Croatian economy

32

Trends in working and employment conditions within precarious employment

From the year 2010 to 2014 a significant rise in the number of employees with a fixed-term contract (or temporary employees) was recorded in Croatia. According to Eurostat (2016p), the share of those employees in the total number of employees increased from 12.3% in 2005 to 16.9% in 2014. Compared to other PRECARIR countries, Croatia recorded the highest increase, followed by Hungary and Slovakia, and to a lesser extent Poland and the Czech Republic, while the rate of other PRECARIR countries was somewhat constant through the mentioned period, or even slowly decreased. In 2014, Croatia was positioned above the EU28 average (16.9% as compared to 14.0%), while compared to other PRECARIR countries the country was positioned after Poland (28.3%) and was followed by Slovenia, whose rate was closest to Croatia and amounted to 16.5% (Eurostat, 2016p).

²¹ The general relaxing of the tax burden on work is necessary in order for Croatia to improve its competitiveness, keep the existing and open new working places and attract new investments (Šimurina, 2015, p.145).

It is important to emphasize that the share of young people (15–29 years) who work on fixed-term contracts increased in Croatia from 28.8% in 2005 to 40.1% in 2014 (Eurostat, 2016q), which was significantly above the increase in the total number of fixed-term contracts in the mentioned period. Among the other PRECARIR countries, Slovakia and the Czech Republic had a higher growth in that category, while some countries (Latvia, Lithuania) recorded decreases (Eurostat, 2016q). In 2014, Croatia was positioned above the EU28 average (57.2% as compared to 43.3%), while Slovenia and Poland had the highest proportion of temporary employed youth (72.7% and 71.2%, respectively).

In contrast to the increase in fixed-term contracts (which indicates a shift towards greater flexibility), the number of people employed part-time decreased. To be specific, from 2005, when it amounted to 7.6%, it dropped to 5.4% in 2014 (Eurostat, 2016m). Compared to other countries in the PRECARIR project, Croatia had the greatest decline of people employed part-time, similar to Poland, while most of the PRECARIR countries recorded an increase in part-time employment. In comparison to the EU28 average in 2014 (19.6%), Croatia had one of the lowest levels of part-time employment (5.4%), similar to Hungary and Slovakia, while the highest rates were in Slovenia (10%) and Romania (8.8%). However, it is evident that all PRECARIR countries had significantly lower proportions of part-time employment in the total employment than the EU28 average (*ibidem*).

The share of involuntary part-time employment in the total part-time employment increased in Croatia from 22.5% in 2005 to 25.5% in 2014 (Eurostat, 2016i) but was still under the EU average (29.6% in 2014). Among the PRECARIR countries, in 2014 Croatia was one of those with the lowest rate, close to that of the Czech Republic (21.1%), while Greece (71.2%), Romania (56.9%) and Hungary (41.1%) were placed well above the EU28 average.

As regards the number of employed people with a second job (expressed in thousands, annual average), in 2014 Croatia recorded 37.4 thousand such workers and was positioned according to this indicator at the bottom of the list of PRECARIR countries together with Latvia and Slovenia (Eurostat, 2016c). In the period between 2005 and 2014 the number of people in Croatia with a second job fluctuated and decreased. The increase in 2014 in comparison with the previous year could be seen as an indicator of flexible trends in this domain, but it should be interpreted with caution given the low number of people in this category.

As regards the working hours of the full and part-time employed in Croatia, both parameters recorded a small decrease in the period of the last

10 years and in 2014 they were at the level of the EU28 average. In the year 2005, full-time employed people worked an average of 42.4 hours per week (Eurostat, 2016g) and part-time employed 22.3 hours (Eurostat, 2016h). In 2014, full-time employed people worked 41.5 and part-time employed workers 20.1 hours per week.

The number of self-employed people has fallen since 2010. This could be attributed to the impact of the crisis, which forced many self-employed individuals into unemployment (Eurostat, 2016n). The same trend is not so clearly observable at the level of the EU28 average. The number of temporary agency workers (TAWs) has an increasing pattern, although in 2013 a slight decrease was recorded (Eurostat, 2016u). Fluctuation of the workforce on the Croatian labour market is relatively limited. On a yearly basis around 20% of workers change their employer (Interview with the CES, 2015).

Forms of precarious employment

Fixed-term work

34

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

The Labour Act defines fixed-term employment contracts as an exception (Art. 12). While the trade unions argue that the popularity of fixed-term employment represents clear abuse of the Labour Act, for the employers

this is directly linked to the rigid legislation, which makes dismissal of workers on open-ended contracts very difficult (Novaković, 2013b, p.44). The provisions of the Labour Act that regulate fixed-term employment are harmonized with EU Directive 1999/70 on fixed-term work. This directive stresses that the abuse of fixed-term employment must be prevented by applying one or more of the following measures: i) stipulating the maximal length of the fixed-term employment, ii) disclosing objective reasons for fixed-term employment, and iii) prescribing the maximal possible number of fixed-term contracts. In order to prevent abuse, the Labour Act incorporates the first and second measure but not the third (ibidem, p.39).²²

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

Work on a fixed-term contract may be considered precarious employment when it comes to the job security of the worker but also with respect to professional training, bearing in mind that employers are usually less motivated to invest in workers on such contracts. Another aspect of precariousness in fixed-term work relates to workers' reluctance to claim all of their rights and to join trade unions, fearing that their contracts may not be renewed.

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

Part-time work

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

36

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

Temporary agency work

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

Article 46 allows the agency to conclude a temporary assignment contract with the worker for a fixed or open-ended period. In the case of concluding an open-ended contract, when the worker is not assigned to the user undertaking, he/she receives from the agency a remuneration

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

In Croatia, agency work is less common than in other EU member states (Novaković, 2013a). Such work is demanded mostly in telecommunications and in the food industry, most frequently when employers need a particular profile of workers for a determined time period.²³ Another reason for employing such workers is the fact that employers don't register agency work in their books as de facto employment. Therefore, such work is convenient if employers don't want to show an increase in employment (Interview with the CES, 2015). According to available official data, in 2014 temporary agencies employed a total of 13,684 workers (which was around 1% of the total workforce).²⁴ However, these data refers to the number of temporary agency contracts in the entire year. Most TAWs work on more than one contract within one year, therefore their number is likely to be smaller (see Table 5).²⁵ The average duration of a temporary agency contract is 11 months but this is only an average figure and variations in the duration of contracts are significant (Interview with the Adecco Croatia, 2015). Currently in Croatia there are no trade unions that would organise just TAWs, and the number of agency workers that are members of other sectoral or company-level trade unions is very low. The agencies themselves are not members of the CEA, which is the only representative employers' association in the country. However, the agen-

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

24 Before 2013, data on temporary agency employment was not systematically collected by the Ministry of Labour and the Pension System.

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

cies formed a coordination, which is associated with the CEA and which can be contacted by the government bodies (*ibidem*).

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

38

In 2014, there were 77 agencies that received a licence for operation from the Ministry of Labour. However, only around 30% of them were active (generating profit). In 2014, the profit of the entire agency sector was around 500 million HRK (*ibidem*). This number is small compared to other new EU member states, which could be explained by the lack of major foreign investments in the area of production. To be specific, examples from the new member states show that in production facilities financed by foreign capital, TAWs represent 20–30 % of the workforce (*ibidem*). One reason why TAWs are not used more frequently is the practice of concluding agreements on business cooperation between two employers, which allows employers not to respect working standards that apply to TAWs. The Labour Inspectorate views such practice, which lowers the costs of employers, as problematic.²⁶ However, at the moment this practice is not illegal.²⁷ In Croatia, the TAWs mostly have lower qualifications and workers with higher qualifications are rare. This differs from the situation in most

26 Compared with other post-transition countries, Croatia has relatively high labour costs, which are not entirely harmonized with its productivity (Tomić, 2015, p.39).

27 Up to 80,000 additional jobs are created (Interview with the Ministry of Labour, 2015).

developed countries, which have much higher proportions of TAWs with higher qualifications (Interview with the CEA's Legal Department, 2015).

Seasonal work

One characteristic of Croatia and other Mediterranean countries is the demand for flexible employment in tourism and catering industry, but also in construction and agriculture. Therefore, employment rates during the summer season differ compared to the rest of the year by 3–4 % (Interview with the CES, 2015).²⁸

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

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

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

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

Telework – alternative workplace

Around 2–3 % of employees report working from home, but the share of these employees during the crisis has decreased by about one-third (Franičević and Matković, 2013, p.85). The advantages of this form of work for employers include: easier access to talented workers and new jobs in smaller regions, increased productivity and lower initial investment in hiring as well as generally reduced costs. On the other hand, such employees are in a better position to balance their private and working life, benefiting from the flexible working hours and saving time spent on commuting. This type of work could also be appropriate for integrating workers with physical disabilities (Lipnjak, 2012, p.24). However, the Labour Act (Art. 17) is considered to be inflexible regarding employers' obligations towards workers in alternative workplaces (Novaković, 2013b, p.41).

Self-employment

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According to the Croatian Bureau of Statistics, self-employed employers are those who run an enterprise and employ one or more employee, and own-account workers who have no employees (CBS, 2013, p.136).²⁹ Other approaches to this form of employment also include members of producers' cooperatives and unpaid workers, i.e. family members who are unpaid but participate in the earnings generated by the company. The latter form of work is particularly widespread in agriculture and in retail (Kulušić, 2009, p.107). In 2014, the number of newly self-employed people, according to the data of the Croatian Employment Service, was 4,489 and accounted for 2% of the total number of newly employed. In the first quarter of 2015, the number of newly self-employed people was 1,509 or 1.9% of the newly employed. The lack of a clear definition of self-employment also entails the phenomenon of bogus self-employment, for which there are no statistical estimates.³⁰

Work outside of employment relationship

There are three forms of work contracts outside an employment relationship: the contract for work (service), the author contract for work and the student contract for work. The most important is the service contract, since the other two could be regarded as derivatives of it, although they are defined by different acts. Work contracts outside an em-

29 For the number of self-employed individuals see Table 5.

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

ployment relationship are highly precarious in all aspects because the protection of workers' rights provided through the Labour Act does not apply to them. Some workers that work on contracts outside an employment relationship could be characterized as bogus self-employed. Despite the fact that engagement of such workers has characteristics of regular employment, they work on these highly precarious contracts without rights and guarantees emerging from an employment relationship. This practice is forbidden by law, but it cannot be easily prevented (Matković, 2009, p.157).

Under a contract for work (service) by the Civil Obligations Act (Official Gazette 125/11), the contractor undertakes to carry out certain work in exchange for the price that the ordering party agrees to pay (Art. 590). While the content of the standard employment contract implies permanently and continuously doing concrete jobs within a specific job position, the content of the contract for work entails the execution or making of an exact and concrete work product. Another difference between the two is the manner of performing the job. Within the standard employment contract, the employee has an obligation to perform the work personally, while within the contract of work that isn't necessary, and the work can be done via a third party (Gotovac, 2011a, p.16). The only Labour Act provision concerning the protection of such workers can be found in Article 10, which indicates that if the contract has features of employment, due to the nature and type of work, it will be treated as an employment contract, unless proven otherwise. This provision is aimed at preventing fictitious contracts for work agreements. However, in reality, the findings of labour inspectors indicate that there are still a fair number of unlawfully concluded contracts for work (Tadić, 2013, p.4).

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

Table 5: Precarious forms of employment – Croatia compared to the EU28 average

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2015 (EU28, average)
Forms of precarious employment												
Temporary employees as percentage of the total number of employees, by sex and age (%) Sex: Total, Age: From 15 to 64 years, Unit: Percentage	12.3 ^b	12.9	13.2	12.3	12.0	12.8	13.5	13.3	14.5	16.9	20.3	14.2
Temporary employees as percentage of the total number of employees, by sex and age (%) Sex: Total, Age: From 15 to 29 years, Unit: Percentage	28.8 ^b	30.3	28.9	26.3	26.5	29.0	33.3	34.6	35.4	40.1	47.1	32.5
People employed part-time – Total % of total employment, Age: From 15 to 64 years.	7.6	7.1	6.1	6.5	6.6	7.0	7.2	5.7	5.4	5.4	5.9	19.6
Involuntary part-time employment as percentage of the total part-time employment, by sex and age (%) Sex: Total, Age: From 15 to 64 years	22.5 ^b	24.9	23.4	21.8	21.5	23.1	24.7	22.2	24.8	25.5	26.7	29.2
Hours worked per week of part-time employment Annual average	22.3 ^b	21.7 ^b	20.6	21.3	21.5	21.3	21.5 ^b	20.6	20.5	20.3	19.8	20.2
Hours worked per week of full-time employment	42.4 ^b	42.0 ^b	42.2	42.1	42.1	42.0	41.7 ^b	41.4	41.1	41.2	41.0	41.4
Employed people with a second job Annual average (1000)	53.4 ^b	47.7	50.8	52.3	47.0	43.6 ^b	37.5	33.2	27.5	37.4 ^b	39.9	8698.3
Number of self-employed people Annual average (1000)	305.4	285.5	279.2	284.9	283.0	293.3	273.8	237.6	236.5	197.8	189.7	30484.8
Temporary employment agency activities (INDIC_SB: Number of employees)	-	-	-	2,433	2,821	3,482	4,505	5,740	5,182	-	-	-
Monthly minimum wage as a proportion of average monthly earnings (%) – NACE Rev. 2	-	-	-	37.6	37.9	38.0	37.5	37.0	37.5	38.8	-	-

Source: Eurostat 4.7.2016. - Note: b – break in time series – *data for 2013

According to the Scientific Activity and Higher Education Act (Official Gazette 101/14), regular students have the right of employment through special legal people, i.e. student centres, which are in charge of issuing the contracts for the work of students. According to the data of the Ministry of Science, Education and Sports, in 2014 there were 75,435 students working on such contracts, which is close to 65% of all regular students (Mrnjavac, 2015, p.100). The problem here lies in classification of the work of students in the domain of work outside an employment relationship. To be specific, due to nature of its content the work done by students usually corresponds to work performed on standard employment contracts. The only difference is the duration of employment, since student work is usually of a short duration (Rožman, 2013, p.11). Additionally, students cannot perform tasks without compensation, which is possible within the framework of a contract for work where the person is paid according to the result of the work and not for the work itself (Gotovac, 2011a, p.17). Students working on student contracts are cheap for employers. Payment of their salaries is not linked to paying income tax, or the related surtax, but only to commission and reduced pension and health insurance contributions (ibidem, p.18). It is therefore not surprising that the use of student contracts in the catering industry increased after the Fiscal System Act (OG 133/12) made work through an informal economy much more difficult in that sector (Interview with the CES, 2015).

Main remarks

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

With respect to forms of non-standard or precarious work, it should be underlined that the crisis resulted in a significant increase in fixed-term work, which represents the most widespread form of non-standard employment in Croatia. In fact, fixed-term work became the dominant form of new employment in post-crisis Croatia. Furthermore, some categories of workers such as youth were disproportionately affected by the increase in fixed-term employment. The crisis resulted in a significant increase in agency work as well, although its usage still lies significantly

below the EU average. This could be explained by the relative scarcity of production facilities financed by foreign capital, which use a lot of agency work, and could change in the future. In the area of part-time work Croatia registers declines, which is contrary to the general EU trends. This, however, is also likely to change, since it used to be connected to pre-2014 legislative imperfections, which made such work too expensive for Croatian employers. The number of self-employed individuals recorded a sharp decline in the post-2008 period, due to their comparatively high exposure to the impacts of the crisis. Specifically, crisis-related job losses were experienced by the self-employed and the private sector, while the public sector remained protected, and even recorded some minor increases in employment. For the phenomenon of bogus self-employment in Croatia there is at the moment no reliable statistical data. However, this form of non-standard or precarious work generally seems less widespread than in most other EU member states. The use of different forms of work outside an employment relationship also seems to be increasing, but statistical information is mostly unavailable. High youth unemployment in the country constrained the government to introduce an “occupational training without commencing employment” scheme. Since 2010, the number of people passing through this scheme has constantly been rising.

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The system of industrial relations in Croatia

According to the 2012 data, the total membership of the four representative trade union confederations was 331,939. However, the number of members of trade unions not affiliated with confederations is hard to determine (Šeperić, 2015). It is estimated that the general trade union density in Croatia is slightly below 30%, with a decreasing trend (*ibidem*). There are around 570 collective agreements currently in force in Croatia, most of which are applicable to the area of only one county (*ibidem*). The coverage of collective agreements at the beginning of 2015 was around 40%, which is much lower than before the crisis when it used to be around 60%.³¹ Generally, huge differences exist between

31 Presentation of preliminary research results by Prof. Dragan Bagić at the conference “Collective bargaining in Croatia and Europe today”, Zagreb 14th October 2015.

collective bargaining coverage in the public sector in the wider sense (68%) and the private sector (17%). The same applies for privatized companies (31%) and newly established companies in the private sector (9%) (Bagić, 2010, p.256). Due to the frequent extension of the application of sectoral collective agreements, most workers are covered only by such agreements. However, since the outbreak of the crisis a growing trend of concluding company-level agreements combined with a reluctance to conclude new sectoral agreements can be observed (Miličević-Pezelj, 2013, pp.7–12).

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

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

Weakening of the social dialogue as an instrument in policymaking can be observed as a consequence of the economic downturn. The government frequently engaged in unilateral decisions, while the focus of collective agreements shifted from wages and other material rights to maintaining employment (ibidem). The recent political instability in Croatia which caused irregular parliamentary elections in September 2016 could be harmful for the social dialogue. In other words, in the post-election period, the focus of the government (especially when former opposition comes to power) is always placed on the formation of new ministries and other state bodies, which limits its capacity for active engagement with the social partners.

The construction sector

General trends

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

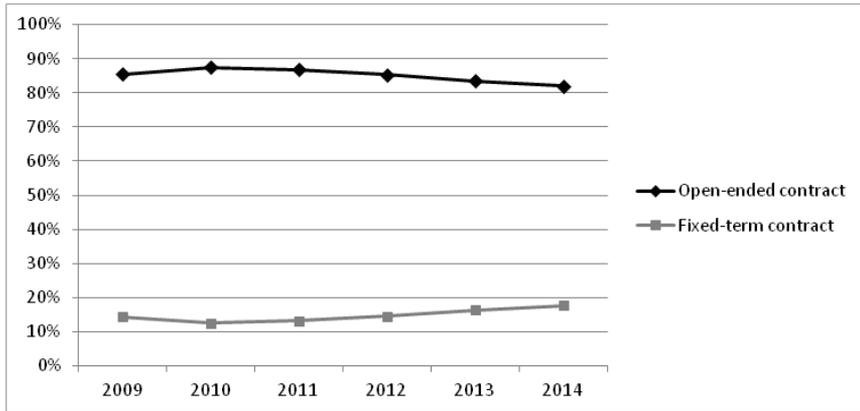
49

Table 6: The precarious forms of employment in the construction sector in Croatia (number of people in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
Total number of employed people	100,825	86,015	75,045	70,001	65,113	60,137
Type of employment						
No. of open-ended contracts	86,248	75,161	65,087	59,720	54,398	49,349
Share of open-ended contracts	85.54%	87.38%	86.73%	85.31%	83.54%	82.06%
No. of fixed-term contracts	14,419	10,722	9,865	10,179	10,622	10,637
Share of fixed-term contracts	14.30%	12.47%	13.15%	14.54%	16.31%	17.69%
Contractual working time						
Full-time	100,287	85,435	74,489	69,282	64,470	59,406
Part-time	419	466	497	654	614	669

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

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



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

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According to the Croatian Bureau of Statistics, in 2013 the construction sector contributed 4.5 per cent of Croatian GDP (CBS, 2015). The Act on Pre-bankruptcy Agreement (OG 108/2012)³² affected a large number of construction companies. In fact, close to 40% of companies where the Trade Union of Construction Industry of Croatia (TUCIC)³³ is represented have been affected by this legislation. The Act considers claims made by workers to have priority over claims made by creditors. However, in reality there are numerous problems in terms of the correct implementation of these provisions (Interview with the TUCIC, 2015).

The majority of construction companies operating in Croatia are in private ownership (97.9%), while 0.9% represent cooperatives. Some 0.6% are in state ownership while 0.6% are in mixed ownership (CCE, 2015a). In the period 2008–2014, the number of fully self-employed people in the construction sector recorded a sharp decline. According to the Eurostat data (2016n), the number of self-employed people in the construction sector decreased repeatedly, from 32,300 in 2008 to only 17,300 in 2014.

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

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

Qualitative analysis

Types of precarious employment in the construction sector

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

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

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

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

Other forms of non-standard work such as self-employment and temporary agency work are not so common in the Croatian construction sector. However, subcontracting is widespread and it is quite common for a larger company that executes work on construction sites to employ only around 10% of the workers, while all other work is done by smaller firms through subcontracting. This again results from the public procurement rules allowing all firms in Croatia to apply for public tenders, regardless of their capacities (Interview with the TUCIC, 2015). Work abroad is frequent in the construction sector and represents an additional source of precarious employment. Workers that work abroad (particularly in non-EU countries) are frequently confronted with the problem of belated or even non-existent payments and the trade unions have very few instruments to protect them (ibidem).

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

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

Trade unions and employers are very active in collective bargaining at both the company and the sectoral level. At the company level in the construction sector there are altogether 38 collective agreements concluded

by the TUCIC (TUCIC, 2011). However, not all of these agreements were concluded with the companies affiliated with the Croatian Employers' Association, which makes collective bargaining more difficult for the trade unions (Interview with the TUCIC, 2015). Due to the crisis some material rights of workers guaranteed by collective agreements were reduced, as an alternative to firing workers, who are later difficult to hire again (Interview with the CEA's Department for Construction, 2015).

The sectoral collective agreement for construction is an open-ended agreement that has existed since 2002 (OG 04/02). Altogether the agreement has been amended eight times (last time in 2015), and after each amendment it was extended by the Minister of Labour (OG 134/15). The practice of extending a collective agreement is strongly advocated by the social partners as an instrument for fighting unfair competition and dumping prices (Interviews with the TUCIC and the CEA, 2015). In 2014, the coverage of collective agreements in the construction sector was 18.2%.³⁴

The sectoral collective agreement for construction is the only sectoral agreement, in an area that is predominantly in private ownership,³⁵ that includes pay tariffs according to the degree of job complexity. It contains pay tariff for ten different job categories and not just the minimal pay, as in most other sectoral collective agreements (Interview with the TUCIC, 2015). The agreement (Art. 4) explicitly notes that it applies to all workers regardless of the type of their contract (open-ended or fixed-term) or working time (full-time or part-time). However, as with the company-level agreements, the sectoral agreement doesn't have any provisions that address only non-standard workers (OG 142/13).

Through its participation in the Economic and Social Council,³⁶ the TUCIC, in cooperation with other trade unions, has influenced legislative changes that directly or indirectly concern non-standard work. In 2011, the trade unions managed to amend the Penal Code (OG 125/11), which defined failure to pay salaries to workers as criminal activity (Art. 132). Furthermore, in 2012, changes to the Foreclosure Act (OG 112/12) were introduced that shortened and simplified the foreclosure procedures, which in the crisis period hit numerous construction companies (ibidem).

34 Presentation of preliminary research results by Prof. Dragan Bagić at the conference "Collective bargaining in Croatia and Europe today", Zagreb 14th October 2015.

35 95% of the companies operating in the construction sector are in private ownership (Interview with the TUCIC, 2015).

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

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

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

Since 2014 the TUCIC and the Croatian Employers' Association have jointly implemented the bipartite action "Fair Prices in the Construction Sector – Safe Working Places the Future of Construction". The initiative insists on legislative changes addressing the unfair competition from the informal economy and the current practices in public procurement. As a part of this action the social partners have asked for an extension of the sectoral collective agreement, which at that time wasn't extended, and for banning the employment of construction professionals through temporary agencies. It is argued that temporary agencies are not in a position to provide employers with construction professionals, who are in high demand on the labour market (ibidem).

The number of strikes organized by the TUCIC has been increasing every year since 2008. The reasons for the initiation of these strikes were

mostly failure to pay workers' salaries, belated payment of salaries and failure to ensure other material rights of workers (Interview with the TUCIC, 2015).

Assessment

Construction was the sector that was hit most by the economic crisis whose impacts almost halved the number of its workers. The crisis also increased the number of construction workers on fixed-term contracts compared to those with open-ended ones. However, probably the most negative consequence of the crisis was the increase of the informal economy in the country. This, according to both social partners, explains the difficulty in finding qualified construction workers on the Croatian labour market, despite the fact that thousands lost their jobs. The sectoral trade union is pursuing the strategy of inclusion of non-standard or precarious work.³⁷ The purpose of this strategy is to reduce non-standard work to a level that could be justified by objective reasons. In the process of collective bargaining the sectoral trade union contracts the rights, which are the same for all workers, and in political lobbying it insists on the inclusion of non-standard workers in standard employment. Since the outbreak of the crisis the trade union has organized an increasing number of industrial actions aimed at reducing the precariousness of construction sector workers. In its regular information and consultation activities the trade union addresses the problem of non-standard or precarious work in the wider context, such as by advocating fair prices, naming and shaming bad employers and reducing the informal economy. The employers comply with many aspects of the pursued trade union strategy of inclusion of non-standard workers. The reasons for this can be found in numerous pressing problems that are shared by the social partners. The employers' association, together with the sectoral trade union, supports the practice of extending the sectoral collective agreement and changing the legislation in the area of public procurement. The reasons for this are pragmatic; namely, the employers' association believes that improved legislation and general application of the sectoral agreement could protect its members from dumping prices and other

37 This categorization is based on Kahancová and Martišková (2011), who draw from Heery and Abbott's (2000) distinguished five trade union strategies towards non-standard workers: inclusion, separation, exclusion, reduction and elimination. For the purpose of the PRECARIR project this approach was slightly adjusted by viewing inclusion, separation and exclusion as distinct trade union strategies and reduction and elimination as the purpose of these strategies.

Box 1. The quality of working conditions in the construction sector

Employment status	Dimensions of working conditions					
	Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
Open-ended contract	<ul style="list-style-type: none"> - in constant decline - trend of introducing a part-time employment for employees with open-ended contracts 	<ul style="list-style-type: none"> - minimum wages set by the sectoral collective agreement - belated payment of salaries in some companies 	<ul style="list-style-type: none"> - overtime work common - trade unions claim that 30–35 % of overtime hours are not paid - rescheduling of working hours 	<ul style="list-style-type: none"> - moderate but lower than before the crisis 	<ul style="list-style-type: none"> - in accordance with legal stipulation 	<ul style="list-style-type: none"> - medium: many companies don't have trade unions
Fixed-term contract	<ul style="list-style-type: none"> - increasing - many such contracts are concluded for a very short time period - many workers work on such contracts for more than three years 	<ul style="list-style-type: none"> - minimum wages set by the sectoral collective agreement - belated payment of salaries in some companies 	<ul style="list-style-type: none"> - overtime work common - trade unions claim that 30–35 % of overtime hours are not paid - rescheduling of working hours 	<ul style="list-style-type: none"> - low: short duration of work contracts 	<ul style="list-style-type: none"> - in accordance with legal stipulation but below the level for standard workers (no rights to severance pay or belated payments, lower chances of receiving unemployment benefits) 	<ul style="list-style-type: none"> - low: fixed-term employees don't usually join the trade union due to fear that their contracts will not be renewed
Part-time contract	<ul style="list-style-type: none"> - on the increase there are cases when workers traded full-time contracts for part-time ones in order to continue working for the same employer 	<ul style="list-style-type: none"> - dependent on working time - belated payment of salaries in some companies 	<ul style="list-style-type: none"> - many employees working full-time, which is not paid as such - overtime work common - trade unions claim that 30–35 % of overtime hours are not paid - rescheduling of working hours 	<ul style="list-style-type: none"> - moderate for workers on open-ended contracts but lower than before the crisis 	<ul style="list-style-type: none"> - in accordance with legal provisions but below the level of full-time workers (very small pensions) 	<ul style="list-style-type: none"> - medium: many companies don't have trade unions - low for workers on fixed-term contracts
Temporary agency work	<ul style="list-style-type: none"> - almost non-existent in construction sector - trade union and employers' association against it 					
(Bogus) self-employment	<ul style="list-style-type: none"> - exists in a small part through cooperation work of small unregistered companies - connected to informal economy 					
Occupational training without commencing employment	<ul style="list-style-type: none"> - not relevant for construction sector 					
Telework	<ul style="list-style-type: none"> - not relevant for construction sector 					
Seasonal work	<ul style="list-style-type: none"> - construction is considered to be a seasonal activity but the institution of permanent seasonal work is not relevant for the sector 					
(Author) contract for work	<ul style="list-style-type: none"> - almost non-existent in construction sector - used for administrative work of retired employees 					
Student contract	<ul style="list-style-type: none"> - not relevant for construction sector 					

unfair business practices coming from the informal economy. Similarly, due to the possibility of abuse, the employers' association agrees with the trade union that agency work by construction professionals should not be allowed. However, based on economic considerations, the employers' association opposes agreeing to more generous material rights for workers in the sectoral collective agreement, fearing that this could endanger the survival of some smaller companies. It also opposes changes to the current system of overtime registration, advocated by the trade union.

The metal industry

General trends

The metal industry is an export-oriented sector of high capital intensity, mostly in private ownership, which like many other sectors has been hit by the crisis. In 2013, it had a 21.94% share in industrial production (Interview with the CCE's Department for Metal Industry, 2015). In 2013, the whole sector had 3,774 companies, which are mostly small and medium size, while there were only 24 big companies (ibidem). In January 2015, the Croatian government adopted the Industrial Strategy 2014–2020, which recognizes the metal industry as one of six advancing forces in the Croatian economy (together with the electrical industry, the IT sector, the pharmaceutical industry, the food industry and the wood industry).³⁸

An important part of the metal industry is shipbuilding, which passed through a demanding process of privatization during the EU accession. Restructuring of shipyards in difficulties is still underway with the aim of reaching sustainability in production. Privatization and restructuring resulted in significant job losses and a reduction of production capacities.³⁹ One unfavourable factor was that the restructuring of the shipyards coincided with the decrease in demand on the world market. Today five Croatian shipyards still employ a significant number of around 6,500 workers and are present on the EU market. Despite major transformation, Croatian shipyards still hold second place in the list of European

38 However, shipbuilding is not included in the mentioned advancing forces. See Industrial Strategy of the Republic of Croatia 2014–2020.

39 Due to the need for restructuring the shipyards and ironworks, Chapter 8 – Market Competition was one of the most difficult chapters in the process of Croatia's EU accession.

shipbuilding orders (13.9%) (Brnić, 2015). However, Croatia is still obliged to report regularly to the European Commission about measures aimed at achieving sustainability for the shipyards as well as compliance with the EU production limits (ibidem).

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

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Since the outbreak of the crisis the total number of people employed in the metal sector has recorded a constant decline, from 69,651 in 2009 to 55,555 in 2014 (some 20%). When looking at the employment in the metal industry in terms of two types of employment contracts it is evident that the number of employees with open-ended contracts significantly prevails. However, there is a trend of successive decline of such contracts (from 60,547 in 2009 to 44,071 in 2014). As a first reaction to the crisis there was a noticeable decline in fixed-term contracts (from 8,912 in 2009 to 7,004 in 2010), but in the following years their number increased significantly, amounting to 11,421 in 2014. Full-time prevails as the contractual working time. However, due to the general fall in employment within the metal industry, the number of full-time contracts decreased in the observed period, from 68,945 in 2009 to 54,914 in 2014. The number of part-time contracts is rather low. There were only 665 part-time contracts in 2009. In the years that followed the number of part-time contracts almost halved, but in 2014 it recovered back to 630.

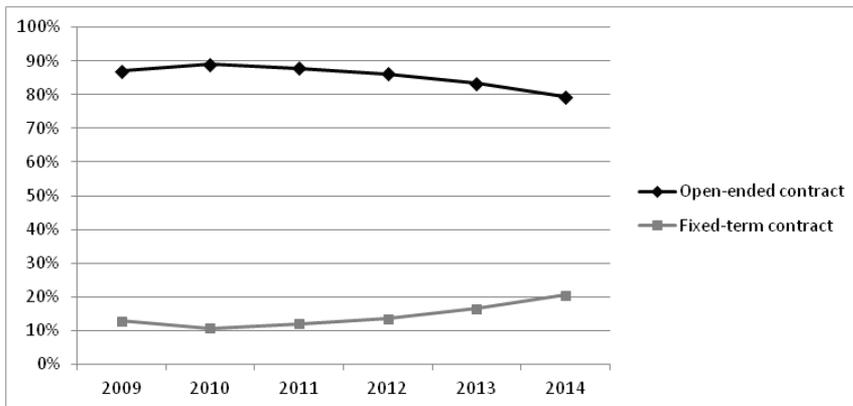
Table 7: The precarious forms of employment in the metal sector⁴⁰ (number of people in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
Total number of employed people	69,651	65,447	63,838	61,352	59,538	55,555
Type of employment						
No. of open-ended contracts	60,547	58,235	56,060	52,845	49,577	44,071
Share of open-ended contracts	86.93%	88.98%	87.82%	86.13%	83.27%	79.33%
No. of fixed-term contracts	8,912	7,004	7,634	8,330	9,803	11,421
Share of fixed-term contracts	12.80%	10.70%	11.96%	13.58%	16.47%	20.56%
Contractual working time						
Full-time	68,945	65,106	63,335	60,966	59,130	54,914
Part-time	665	308	485	371	334	630

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

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



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

40 Manufacture of basic metals; manufacture of fabricated metal products, except machinery and equipment; manufacture of machinery and equipment; manufacture of motor vehicles, trailers and semi-trailers; manufacture of other transport equipment; other manufacturing; repair and installation of machinery and equipment (according to National Occupational Classification (NOC) from 2007).

Qualitative analysis

Types of precarious employment in the metal industry

60 The consequences of the economic crisis resulted in an increase in the non-standard or precarious work in the metal industry, but it was not as sharp as in some other sectors (Interview with the CEA's Department for Metal Industry, 2015). This could be attributed to the fact that its export-oriented profile preserved the metal industry from the most severe impacts of the economic crisis (Interview with the CCE's Department for Metal Industry, 2015). The most common form of non-standard work is employment on fixed-term contracts, which is unfavourable in terms of the material rights of workers. To be specific, collective agreements concluded by the Metalworkers' Trade Union of Croatia (MTUC)⁴¹ include pay rises of 0.5% on a yearly basis. This in practice means that many fixed-term workers with large gaps between periods of employment work for very low salaries. Furthermore, such workers face difficulties in claiming other material rights such as Christmas bonuses, recourse for annual vacations, jubilee bonuses etc. (Interview with the MTUC, 2015). In some collective agreements the MTUC managed to limit the number of workers that can be employed on fixed-term contracts to 20–25 % (ibidem). As a general rule, in larger companies (such as Đuro Đaković) the trade unions are active and the rights of fixed-term and other precarious workers are respected. On the other hand, in smaller companies there are usually no trade unions and therefore fixed-term workers face difficulties claiming their rights. In some rare cases fixed-term employment is related to the seasonal character of production.⁴²

Temporary agency workers are rare in the metal industry but nonetheless in many company-level collective agreements the MTUC managed to include the rule that such workers should not exceed 5–10 % of the total workforce (ibidem). In most of its company-level collective agreements,

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

42 According to the MTUC, numerous workers of the "Đuro Đaković Agricultural Machinery and Appliances" from Županja work only during the production season (3–6 months a year).

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

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

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

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

Subcontracting represents an essential part of production in the metal industry. Work that is small in volume needs to be handed out to subcontractors because otherwise factories would not be able to work to full capacity, which would increase the production costs (ibidem). In most cases subcontractors are limited-liability companies or crafts and sometimes they are self-employed. However, in most cases self-em-

ployed subcontractors carry out work for more than one company and as such they cannot be categorized as bogus self-employed (Interview with the CEA's Department for Metal Industry, 2015). Within the metal industry subcontracting is most widely spread in shipbuilding. Therefore, the national collective agreement for the shipbuilding industry obliges companies to provide all information that relates to subcontracting to the trade union representative. Referring to this provision in 2010, the MTUC managed to negotiate a reduction in the amount of subcontracting in the Viktor Lenac shipyard, where hourly costs of work among subcontractors exceeded equivalent costs of work performed by the shipyard's employees (Interviews with the MTUC and the CEA's Department for Metal Industry, 2015).

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

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

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

the type of their contract or working time (Collective Agreement for the Shipyards, 1996).

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

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

Social partners established strong cooperation in the area of lifelong learning and vocational training. The shortage of qualified and skilled metal industry workers is significant. Therefore, social partners seek to influence the education system through the Croatian Qualifications Framework.⁴³ Their aim is to make the Croatian education system more flexible and better adjusted to the labour market needs in the metal industry sector (Interview with the CEA, 2015). In May 2015, the MTUC, the CEA, the metal industry company Đuro Đaković and the Uljanik shipyard established the Centre of the Metal Industry Competences at Đuro Đaković – CEMEKO. This is an association that works at connecting education institutions with employers who express a need for training their workers. CEMEKO also supports the development of educational programmes based on the needs of metal industry companies (CEMEKO Press release, 2014). Through CEMEKO the CEA will support the development of non-standard forms of employment in the metal industry sector. They note that the mobility of workers between companies is currently low and CEMEKO could contribute to resolving this problem, to the benefit of both employers and their workers (Interview with the CEA's Department for Metal Industry, 2015).

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

Assessment

As in other sectors, the overall number of metal industry workers was reduced due to the crisis and the percentage of non-standard or precarious (mostly fixed-term) workers compared to standard workers has changed in favour of the former. However, compared to other sectors

43 The Croatian Qualifications Framework is a reform instrument for regulating the system of qualifications at all levels in the Republic of Croatia through qualification standards based on learning outcomes and following the needs of the labour market, individuals and the society (<http://www.kvalifikacije.hr/hko-en>). It enables recognition of Croatian qualification standards with the EU framework.

also predominantly in private ownership, the increase in non-standard work was moderate, because the metal industry's export-oriented production saved it from stronger negative impacts from the economic crisis. When it comes to collective bargaining the sectoral trade union adopted a strategy towards non-standard workers that combines the elements of inclusion with those of separation. The separation elements of that strategy are visible from the fact that in many of its company-level collective agreements the trade union prescribed limitations to the employment of different types of non-standard workers. In this way, the trade union started to treat these workers as a particular group that requires a particular attention and action. The purpose of the pursued trade union strategy is the reduction of non-standard work in the metal industry sector, i.e. compelling employers to employ workers on open-ended contracts. For the employers' association complying with the described trade union strategy in the sectoral collective agreement (which is currently being negotiated) could prove difficult due to economic considerations. Another stumbling block with respect to sectoral agreement is the material rights of workers and the distribution of working time, where the positions of the employers' association oppose those of the sectoral trade union. However, despite all these difficulties both social partners argue that once concluded the sectoral agreement should be extended. This position of the employers' association is based on pragmatic considerations; namely, the employers' association advocates compliance with the labour standards as a means of protecting its own members from unfair competition practices. Besides collective bargaining, the social partners closely cooperate in efforts towards making the Croatian education system more flexible and better adjusted to labour market needs. However, while the trade union considers this to be an opportunity to make metal industry workers more competitive and therefore better equipped for standard employment, the employers' association sees it as a chance to develop non-standard flexible forms of employment.

Box 2. The quality of working conditions in the metal industry

	Dimensions of working conditions					
Employment status	Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
Open-ended contract	- most workers are in standard employment	- belated payment of salaries in some companies	- overtime work common - unequal distribution of working time frequent	- depends on branch of metal industry – moderate to low in shipbuilding and ironworks, higher in some other branches	- in accordance with legal stipulations	- relatively high despite absence of a sectoral collective agreement - reduction of some material rights in collective agreements
Fixed-term contract	- on the increase since outbreak of the crisis - in some collective agreements limited to 20–25 % - semi-seasonal work	- pay rises connected to years of service (lower incomes) - belated payment of salaries in some companies	- overtime work common - unequal distribution of working time frequent	- low, the contract may not be renewed without any explanation	- in accordance with legal stipulations but fixed-term workers face difficulties claiming their rights	- low, fixed-term workers usually don't join trade unions fearing that employer will not extend their contracts
Temporary agency work	- rare but limited in collective agreements to 5–10 %	- same as for other workers - lower wages and other material rights could be agreed in a separate collective agreement	- only full-time - other aspects of working time same as for other workers	- low: the law allows open-ended contracts but in practice they still don't exist	- in accordance with legal stipulations	- very low: workers are not members of trade unions and they work on fixed-term contracts
Occupational training without commencing employment	- used since 2010	- on the level of the minimum wage	- overtime work very common	- very low: the arrangement expires after one year without any guarantees for the trainee	- obligation of the employers subsidized by the State	- very low: trainees are not members of trade unions, collective agreements don't apply
Part-time contract	- still very marginal					
(Bogus) self-employment	- some subcontracting mostly in the shipbuilding industry falls into this category, but a more detailed research would be needed to corroborate this claim with certainty					
Telework	- not relevant for the sector					
Seasonal work	- workers employed on regular fixed-term contracts and not as permanent seasonal workers (see Part I)					
(Author) contract for work	- very rare form of employment in the metal industry sector - used for administrative work of retired employees					
Student contract	- not relevant for the metal industry sector					

The retail sector

General trends

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

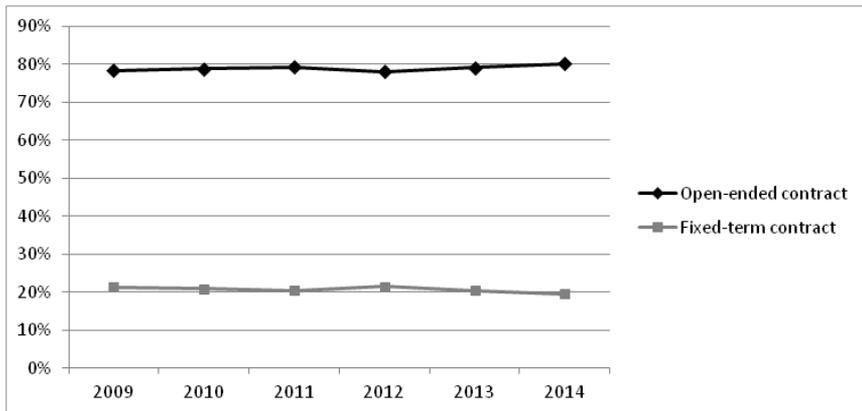
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Table 8: The precarious forms of employment in the retail trade, except for motor vehicles and motorcycles (number of people in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
Total number of employed people	98,963	92,024	89,203	88,876	85,164	84,420
Type of employment						
No. of open-ended contract	77,565	72,565	70,763	69,446	67,395	67,722
Share of open-ended contracts	78.38%	78.85%	79.33%	78.14%	79.14%	80.22%
No. of fixed-term contract	21,158	19,204	18,178	19,132	17,435	16,512
Share of fixed-term contracts	21.38%	20.87%	20.38%	21.53%	20.47%	19.56%
Contractual working time						
Full-time	97,893	90,574	87,527	86,924	82,646	81,471
Part-time	890	1,352	1,563	1,600	2,416	2,856

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

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



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

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

Qualitative analysis

Types of precarious employment in the retail sector

Fixed-term contracts represent the most common type of precarious work and since the beginning of the crisis 90% of all new employment contracts have been concluded on a fixed-term period (Interview with the CTUC, 2015). The short duration of fixed-term contracts makes such work particularly precarious. Contracts for work that last for only one month are widespread in the retail sector, and they are usually justified by the simple expression “increase in the amount of work”. This, according to the trade unions, represents a legislative problem because

the Labour Act is not precise enough, allowing a broad interpretation of the reasons for concluding fixed-term contracts (*ibidem*). The Labour Inspectorate has the right to initiate a process of determining whether the use of fixed-term contracts is justified. However, in practice this is rarely implemented because current legislation makes it very difficult for inspectors to prove unjustified use of a fixed-term contract (*ibidem*).

Part-time work in the retail sector has increased since 2009. After the crisis there was a common practice of reducing workers' working time from 40 to 30 hours a week among employers. In most cases such reductions ignore the complex legal procedure that envisages the expression of the valid reason for the reduction of working time and notification of the workers' council (*ibidem*). According to the CTUC,⁴⁴ reductions from full-time to part-time are often implemented in order to bypass the legally prescribed workers' right on paid breaks. Such breaches are possible because the number of inspectors is too small (*ibidem*).

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

Work on Sundays and during public holidays is equally affected by the problem of unpaid overtime work. The Labour Act (OG 93/14) and the Act on Public Holidays (OG 130/11) prescribe that workers who work on Sun-

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

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

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Seasonal work in the coastal areas of Croatia is widespread, since in these regions employers only need additional workers during the tourist season. Student work is also widespread in the big retail centres, but students usually work on assignments that don't carry financial responsibility. Students sometimes work on projects funded by third parties. In such cases their employers are not the retail companies where they work but third parties that finance the implementation of these projects. This situation makes it particularly difficult for the trade unions to protect the rights of such workers (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Temporary agency work is very limited in the retail sector and it usually concerns non-retail activities such as cleaning and security services (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Work in the informal economy was reduced after the enactment of the 2014 changes to the Act on Pension Insurance (OG 151/14, 33/15). They obliged employers to register all new workers at the Croatian Pension Insurance Institute within 24 hours of the start of their employment. However, despite improvements, work in the informal economy still exists, particularly within activities where workers have no direct contact with the customers, such as delivery services or work in the storehouses (Interview with the CTUC, 2015). There is no evidence of bogus self-employment in the retail sector, despite the fact that self-employment exists (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015).

As a specific problem, the CTUC underlines the pressure that some employers put on older workers (both standard and non-standard) aimed at making them agree to early retirement.⁴⁵ This represents a social problem, because the pensions of workers who retire early are so small that it is very difficult to survive by living just from this income. For employers, early retirement brings cost reductions because the salaries of young workers are smaller. Furthermore, some employers replace their early retired workers with young trainees whose salaries are paid by the State (see Part 1).

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

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

The sectoral-level collective agreement in the retail sector was cancelled in July 2013 on the initiative of the employers. This reduced the coverage of collective agreements, which was only 8.5% in 2014.⁴⁶ The CTUC was against the cancellation of the collective agreement claiming that it wasn't based on objective reasons (ibidem). Negotiations on the new sectoral collective agreement started in September 2013 and they are still ongoing. The starting point was the negotiation protocol between social partners that, as claimed by both sides, is being respected (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Difficult sector-specific issues such as work on Sundays and overtime work are likely to be specifically addressed in the agreement, which is expected to be finalized in 2016 (Interview with the CEA's Department for Retail Sector, 2015). The material rights of workers that are currently being negotiated have proved to be the most controversial element of the new agreement. The CTUC insists on the material rights from the pre-

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

46 Presentation of preliminary research results by Prof. Dragan Bagić at the conference "Collective bargaining in Croatia and Europe today", Zagreb 14th October 2015.

vious agreement. On the other hand, the CEA argues that the crisis created new conditions on the labour market that need to be recognized. It therefore insists on the reduction of some material rights (primarily bonuses) and on the inclusion of additional innovative benefits for the workers such as education programmes, medical examinations, voluntary pension insurance programmes etc. (Interviews with the CTUC and with the CEA's Department for Retail Sector, 2015). Both social partners agree that the extension of the sectoral collective agreement represents a good instrument for reducing labour market segmentation.⁴⁷

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

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

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

The insufficient number of education programmes in the retail sector is widely acknowledged. Therefore, many retail chains have developed the-

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

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

Assessment

Due to the crisis the number of people employed in the retail sector has decreased, while different forms of non-standard or precarious work (particularly part-time work) have increased. The sectoral trade union has adopted a strategy towards non-standard or precarious workers that combines the elements of inclusion with those of separation. This means that in addition to treating all workers the same, sometimes non-standard workers are treated as a particular group. The ultimate goal of this mixed strategy is to reduce the proportion of non-standard workers within the sector as a whole. The material rights agreed in the company-level collective agreements associated with the sectoral trade union apply to all workers equally. However, in these agreements the sectoral trade union managed to oblige employers to give priority to their fixed-term workers when considering hiring new workers on open-ended contracts. The elements of a separation strategy are also visible in the domain of political lobbying where the union invests efforts into trying to legally prevent work on Sundays and during public holidays. Such work particularly affects non-standard workers, who are not in a position to fight against abuse related to this kind of work. With respect to consultation activities, the sectoral trade union has a lot of experience with secret trade union membership, which allows non-standard workers to enjoy the benefits of trade union membership without additionally compromising their job security. The employers' association opposes the standpoints of the sectoral trade union regarding work on Sundays and during public holidays, overtime work, the material rights of workers, and the union's general reservations regarding non-standard forms of work. This position of the employers' association is based on economic considerations, because they fear that increased rigidity in the aforementioned issues could drive many employers out of business. Additionally, the strong positions of the employers' association in favour of non-standard work are also based on organizational considerations; namely, retail is predominantly a low-skills sector where workers can

Box 3. The quality of working conditions in the retail sector

Employment status	Dimensions of working conditions					
	Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
Open-ended contract	<ul style="list-style-type: none"> - growing trend of involuntarily replacing full-time with part-time - older workers often under pressure to retire early 	<ul style="list-style-type: none"> - frequent non-payment of overtime work 	<ul style="list-style-type: none"> - overtime work common 	<ul style="list-style-type: none"> - legally high but compared to other sectors low because workers can easily be replaced 	<ul style="list-style-type: none"> - high: stipulated by legal acts 	<ul style="list-style-type: none"> - high in companies where there is a trade union and collective agreement - sectoral collective agreement currently non-existent
Fixed-term contract	<ul style="list-style-type: none"> - most common form of employment after outbreak of economic crisis 	<ul style="list-style-type: none"> - frequent non-payment of overtime work 	<ul style="list-style-type: none"> - overtime work very common 	<ul style="list-style-type: none"> - low, particularly because many contracts get concluded for a very short time 	<ul style="list-style-type: none"> - in accordance with legal provisions but below the level for standard workers (no rights to severance pay, difficulties in claiming belated payments and unemployment benefits) 	<ul style="list-style-type: none"> - low: workers are usually not members of trade unions
Part-time contract	<ul style="list-style-type: none"> - sharply increased since outbreak of the crisis - often concluded not as a wilful choice of workers 	<ul style="list-style-type: none"> - sector is a low-income activity, wages of part-time workers extremely low 	<ul style="list-style-type: none"> - overtime work very common 	<ul style="list-style-type: none"> - for the workers on open-ended contracts relatively high - for the workers on fixed-term contracts low 	<ul style="list-style-type: none"> - in accordance with legal provisions but below the level of full-time workers (very small pensions) 	<ul style="list-style-type: none"> - high for workers on open-ended contracts in companies where there are trade unions - low for workers on fixed-term contracts
Student contract	<ul style="list-style-type: none"> - frequent form of additional employment in foreign shopping centres 	<ul style="list-style-type: none"> - lower than wages of other workers (form of work outside of employment relationship) 	<ul style="list-style-type: none"> - overtime work very common 	<ul style="list-style-type: none"> - very low (form of work outside of employment relationship) 	<ul style="list-style-type: none"> - very low: no social security or pension entitlements 	<ul style="list-style-type: none"> - very low: workers are not members of trade unions, collective agreements don't apply to these workers
Occupational training without commencing employment	<ul style="list-style-type: none"> - used since 2010 	<ul style="list-style-type: none"> - on the level of the minimum wage 	<ul style="list-style-type: none"> - overtime work very common 	<ul style="list-style-type: none"> - very low: the arrangement expires after one year without any guarantees for the trainee 	<ul style="list-style-type: none"> - obligations of employers subsidized by the State 	<ul style="list-style-type: none"> - very low: trainees are not members of trade unions, collective agreements don't apply
Temporary agency work	<ul style="list-style-type: none"> - used only in supplementary services such as cleaning and maintenance services but not for primary commercial activities that carry fiscal responsibility 					
(Bogus) self-employment	<ul style="list-style-type: none"> - not relevant for the sector 					
(Author) contract for work	<ul style="list-style-type: none"> - marginally used in the retail sector 					
Telework	<ul style="list-style-type: none"> - not relevant for the sector 					
Seasonal work	<ul style="list-style-type: none"> - common in the coastal area during the tourist season - for the most part workers are employed on regular fixed-term contracts and not as permanent seasonal workers (see Part I) 					

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easily be replaced, which makes it particularly suitable for non-standard forms of work. The polarized positions of social partners over the issue of non-standard work may at least partially be reconciled by signing the sectoral collective agreement, which is currently being negotiated. This cautious optimism is based on the fact that negotiations are in an advanced stage, while both partners advocate extension of the agreement. Furthermore, signing the sectoral collective agreement may improve the social legitimacy of retail sector companies and their approval among customers.

Public health care

General trends

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

A comprehensive public health-care sector reform was initiated in late 2014, and it will be implemented in the next three to five years. The reform started in January 2015 with the detachment of the Croatian Health Insurance Fund from the State Treasury. The reasons behind this action were rationalization of the costs of health protection, better protection for patients and harmonization with the best practice in other EU member states (Croatian Health Insurance Fund, 2016). In the legislative sense the reform implies changes to the Health Protection Act (OG 154/14) and the Act on Compulsory Health Insurance (OG 80/13, 137/13). Among other things, the reform is expected to provide: payment of hospital debts, making hospitals financially sustainable by 2017; a new system of remuneration for health-care workers; more specialist care in local health centres; and better regulation of doctors' supplementary work, allowing the Croatian Health Insurance Fund to establish separate companies for the management of secondary activities as well as more opportunities for the development of health tourism (Poslovni.hr, 2015a). The first re-

sults of the health-care reform are encouraging because hospitals have substantially decreased their losses, from HRK 742 billion in the first half of 2014 to HRK 153 billion in the first half of 2015 (Crnjak, 2015). Despite this, the trade unions are sceptical, fearing that reform will lead to the privatization of public health care (Interview with the ATUHSPC, 2015).

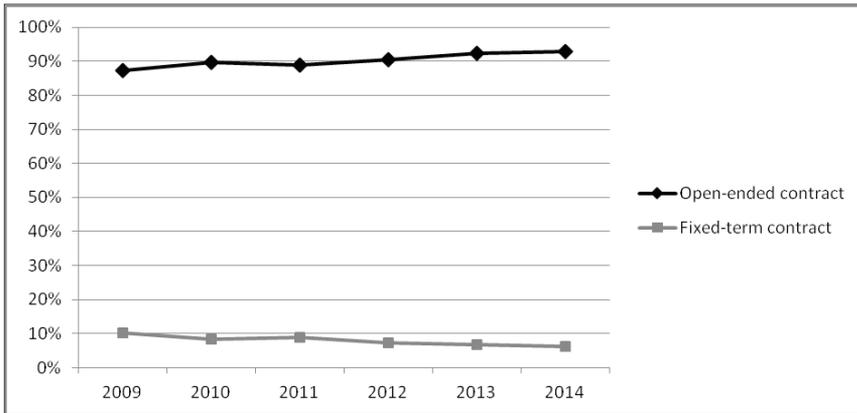
Being part of the public sector, health care has a much lower share of employees earning below 60% of the mean wage than sectors predominantly in private ownership (Franičević and Matković, 2013, p.83). Despite this, the opening of the EU labour markets after accession resulted in the employment of some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

Table 9: The precarious forms of employment in human health activities in Croatia (number of people in paid employment in legal entities)

Category	2009	2010	2011	2012	2013	2014
Total number of employed people	65,684	65,380	66,097	67,155	66,557	65,907
Type of employment						
No. of open-ended contract	57,264	58,591	58,733	60,758	61,368	61,149
Share of open-ended contracts	87.18%	89.62%	88.86%	90.47%	92.20%	92.78%
No. of fixed-term contracts	6,781	5,433	5,894	4,942	4,406	4,064
Share of fixed-term contracts	10.32%	8.31%	8.92%	7.36%	6.62%	6.17%
Contractual working time						
Full-time	64,976	64,754	65,431	66,061	65,841	65,158
Part-time	447	389	484	856	623	569

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

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



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

In the first few years after the beginning of the crisis, the health-care sector recorded a modest, but successive increase in the number of employees (from 65,684 in 2009 to 67,155 in 2012). However, in the post-2012 period a moderate decreasing trend was recorded, resulting in 65,907 employees in 2014. In the observed period the health-care sector continuously recorded a moderate increase in the number of open-ended contracts, while the number of fixed-term contracts decreased. From 2009 the number of open-ended contracts continuously increased, reaching a peak in 2013 with 61,368 employees on such contracts. On the other hand, the number of fixed-term contracts declined from 6,781 in 2009 to 4,064 in 2014. Since 2009 the vast majority of employees in the health-care sector have worked full-time. In 2014, the number of employees working full-time was 65,158 while there were only 569 workers on part-time contracts.

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Qualitative analysis

Types of precarious employment in the health-care sector

Fixed-term contracts represent the most common form of non-standard or precarious work in the health-care sector. The prevalence of fixed-term contracts in the sector is not related to the crisis as much, since even before the crisis a similar number of workers worked on such con-

tracts (Interview with the ATUHSPC, 2015). Before the crisis many non-standard or precarious workers in the public sector (health care included) managed to find their way into standard employment. However, after the crisis a return to unemployment became a more likely outcome for public sector fixed-term employees (and trainees) than progress into standard employment (Franičević and Matković, 2013, p.82).

The Autonomous Trade Union in Health Service and Social Protection Service of Croatia (ATUHSPC)⁴⁸ considers it problematic that a significant number of health-care workers work on such contracts. It stresses that hiring workers on fixed-term contracts is not logical, since the sector is funded from public sources and it experiences a chronic shortage of workers. For the ATUHSPC, in most cases there are no legitimate justifications for hiring workers on fixed-term contracts. Nonetheless, this is done in order to make savings in the system, because workers on fixed-term contracts are unlikely to request all of their material and other rights, fearing that their contracts might not be renewed (Interview with the ATUHSPC, 2015).

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

Part-time work exists in the sector but only marginally. It mostly concerns doctors who have retired but, due to the general shortage of doctors,

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

still have the right to work up to four hours per day (*ibidem*). Similarly, retired doctors sometimes work on author contracts for work. Temporary agency work is also sporadically represented. It concerns non-health workers such as those working for the cleaning service. Since mid-2014, public sector cleaning service workers that retire as a rule have been replaced with agency workers. For the ATUHSPC this represents a problem, because workers who clean hospitals need to be properly trained. Forms of work such as self-employment and seasonal work cannot be detected in the public health-care system (Interview with the ATUHSPC, 2015).

Overtime work represents an issue of particular importance in the health-care sector because of the non-standard distribution of working time, which includes weekends and public holidays. Furthermore, the problem of overtime work is generated by shortages of medical professionals, which oblige employees to work overtime.⁴⁹ For the purpose of harmonization with the EU *acquis* Croatia needed to make changes to its institution of duty for medical doctors, which doesn't exist in the EU. Duty time is time after the regular working hours when doctors stay in hospitals in order to be available if needed. Duty time used to be calculated separately from working time. However, recently duty time has been calculated in the same way as regular working time. In practice this means that duty time is treated as regular overtime and that it is paid at a 50% higher rate than working time. This treatment of duty time is problematic for the ATUHSPC, because it creates a significant imbalance between the income levels of doctors and those of other medical professionals. Furthermore, the ATUHSPC argues that duty time is not the same as working time and that it therefore cannot be treated as such (Interview with the ATUHSPC, 2015). It should be stressed that the Ministry of Health acknowledges this problem and intends to address it through better organization of work and a new remuneration system (Poslovni.hr/Hina, 2015a).

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

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

and adverse for patients, who need the best possible care (Interview with the ATUHSPC, 2015).

Initiatives of the social partners related to precarious work in the health-care sector

The ATUHSPC is a signatory of the Basic Collective Agreement (BCA) for public services, which regulates the wage basis, bonuses, the duration of the annual leave and other rights for all workers in the public sector. The current BCA was signed in December 2012 for a period of four years. After signing the BCA the government has 60 days to start negotiations on the specific sectoral collective agreement for the various parts of the public sector. Following this timetable, the sectoral collective agreement for health care was signed in December 2013 for a four-year period. The signatories of this agreement for the trade unions are the ATUHSPC and the Croatian Trade Union of Nurses and Medical Technicians (CTUNMT). The Ministry of Health signed the agreement on behalf of the employers. The sectoral agreement contains provisions concerning peaceful resolutions of arguments, strikes, interpretation of the agreement, renewal of the agreement, rights and duties related to employment, salaries, other material rights, safety at work and rights of the trade unions. It treats all workers equally and has no specific provisions that concern non-standard or precarious workers (OG 43/13, 96/15).

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

In mid-2014, the ATUHSPC was one of the most active trade unions in a campaign against the Croatian government's proposal to implement outsourcing of non-core services in the public sector. As a response to the government's proposal, the trade unions successfully organized a campaign collecting citizens' signatures calling for a referendum that

would ban outsourcing in the public sector. By collecting the required number of signatures the trade unions managed to constrain the government to abandon this proposal, although the referendum itself never took place. During the signature-collecting campaign, ATUHSPC representatives frequently appeared in the media stating their opposition to outsourcing in the public sector. They argued that outsourcing represents a threat to the existing high standards in hospital non-core services such as cleaning and cooking (Kovačević Barišić, 2014). In the public health-care system there are some 14,000 non-health workers at risk of outsourcing (Franičević and Matković, 2013, p.75).

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

Assessment

Being part of the public sector, health care didn't experience the wave of dismissals that swept numerous other sectors primarily in private ownership. In the last five years the number of workers on fixed-term contracts has decreased while standard employment has increased, but it is too early to be calling this a lasting trend. However, there is still a significant group of workers who work on fixed-term contracts, which, according to the sectoral trade union, for the most part cannot be justified. The sectoral trade union adopted a strategy of inclusion towards non-standard or precarious workers. According to this strategy, the sectoral trade union serves as a broad interest representation organization that makes no differentiation between standard and non-standard workers. The purpose of this strategy is to reduce non-standard work in public health care to a level that can be objectively justified. Being part of the public sector, all workers in the health-care sector are covered by both the basic and the sectoral collective agreement. Both agreements treat all workers equally, drawing no distinction between standard and non-standard workers. In the area of collective bargaining the pursued trade union strategy of inclusion towards non-standard workers is generally followed by employers, which is visible from statistical data and can be explained by severe shortages of qualified workers. However, the pursued trade union strategy of inclusion also comes to the surface in other

areas such as political lobbying and mobilization, where there is less agreement between social partners. In other words, the sectoral trade union was one of the most active unions in the 2014 campaign, which, by means of calling for a people's initiative, blocked the government's proposal to introduce outsourcing of non-core services in the public sector. If implemented, this proposal could have increased the number of non-standard workers in the health-care sector from the current below 10% to more than 20%. Nevertheless, the government introduced a policy of replacing all retired non-core public sector workers with outsourced workers. In the future this will slowly influence the prevalence of non-standard work in this sector. Overtime work represents an issue of heated debate and confrontation between the professional trade unions of doctors and nurses on one side and the sectoral trade union on the other. For the sectoral trade union, the current calculation of doctors' duty time needs to be changed since it introduces a great imbalance between the income levels of doctors and those of other categories of workers.

Box 4. The quality of working conditions in the public health care

	Dimensions of working conditions					
Employment status	Incidence	Wages	Working time	Job security	Social security	Voice through trade unions, protection through collective bargaining
Open-ended contract	- most common employment form in the health-care sector, especially for doctors	- regulated by collective agreements - lower share of employees with low pay compared to private sector	- high levels of overtime work - calculation of overtime work represents a dispute among the trade unions and between the trade unions and the employers	- high due to staff shortages	- in accordance with legislative stipulations and collective bargaining regulations	- high: workers covered by the basic collective agreement for all public services and the sectoral collective agreement
Fixed-term contract	- frequent form of employment for workers other than doctors at the beginning of their careers	- the same as in the case of open-ended contracts	- high level of overtime work - calculation of overtime work disputed	- low: the provision banning employment for six months to replace a fixed-term worker whose contract was not renewed was abolished	- in accordance with legal stipulation but below the level for standard workers (no rights to severance pay, lower chances of receiving unemployment benefits)	- moderate: workers are willing to be a part of the trade union but they hesitate fearing that their contracts may not be prolonged
Occupational training without commencing employment	- used since 2010	- on the level of the minimum wage	- overtime work very common	- very low: the arrangement expires after one year without any guarantees for the trainee	- obligations of the employers subsidized by the State	- very low: trainees are not members of trade unions, collective agreements don't apply
Part-time contract	- refers mostly to doctors who upon retirement may work for up to four hours a day in a hospital given the high shortages of doctors					
Temporary agency work	- relevant only for staff in the hospital cleaning service					
(Bogus) self-employment	- not relevant in health-care sector					
Telework	- not relevant for the sector					
Seasonal work	- not relevant for the sector					
(Author) contract for work	- marginally used in the health-care sector					
Student contract	- not relevant for the sector					

COMPARATIVE EVALUATION OF SELECTED SECTORS AND CONCLUSIONS

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

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The four sectors (construction, metal industry, retail trade and public health care) analysed in this study show that before the crisis in Croatia regular open-ended contracts prevailed, while non-standard or precarious work found itself on the periphery, where it was mostly reserved for workers at the beginning of their careers. However, due to the crisis the use of non-standard work increased and the differences between the public and private sector became more pronounced. Fixed-term work represents the most widespread form of non-standard or precarious work in Croatia, which overshadows all other forms. In fact, statistics show that in the last ten years fixed-term employment has become the dominant form of new employment. Since the outbreak of the crisis in the construction and metal industries the number of fixed-term contracts compared to open-ended ones has increased, while in the retail sector it has stagnated. Out of all the sectors focused on in this study only public health care has registered a decrease in the use of fixed-term contracts. This could be explained by the comparatively less severe impact of the crisis on the public sector.

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

Part-time work is still marginally used, but this could change in the near future. This is because legislative changes introduced in 2014 made part-time employment more attractive and employers no longer have to fear losses because they employ someone in this way. In the observed sectors part-time work has been on the increase in construction and in retail. In both sectors the crisis increased the number of involuntary part-time workers, while the trade unions reported numerous employers' misuses of this form of work. Bogus self-employment is difficult to identify on the Croatian labour market, which could partly be explained by the popularity and ease of using fixed-term contracts. Within the four observed sectors bogus self-employment could be found in the construction and metal industries, but not in the two other sectors where subcontracting is rare. Student work represents work outside the employment relationship, which makes it highly precarious. It is relevant for the retail sector where, since the outbreak of the crisis, it has been increasingly frequent. Since 2010 all the observed sectors, except construction used the work of occupational trainees. The salaries of these trainees are currently on the level of the minimal wage and most Labour Act provisions apply to such workers. However, trainees are not members of trade unions and they don't have the protection of collective agreements. Overtime work represents an issue of heated debate between social partners. For the trade unions, misuse of overtime work represents one of the principal sources of precariousness and affects all workers, standard and non-standard. Therefore, unions advocate more rigidity in the registration of overtime work, which employers reject.

The sectoral trade unions in construction and in public health care chose the strategy of inclusion towards non-standard or precarious workers. In other words, while intending to reduce the number of non-standard

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

In the metal industry and in the retail sector the crisis caused the loss of jobs and a reduction of some of the material rights of workers. These losses were less severe than those in the construction sector, but nonetheless significant. The strategy towards non-standard workers chosen by the sectoral trade unions combines the elements of inclusion with those of separation (treating such workers as a particular group). As with the pure strategy of inclusion, the aim of this mixed strategy is to reduce the number of non-standard workers compared to workers on open-ended contracts. The sectoral trade union for the metal industry prescribed limitations on the number of non-standard workers in its company-level collective agreements. Similarly, the sectoral trade union in the retail sector in its company-level collective agreements managed to negotiate a priority status for fixed-term workers in the case of new employment on open-ended contracts. The retail sector trade union also lobbied the government to ban work on Sundays and during public holidays, which has particularly negative implications for the working

conditions of non-standard workers. Additionally, the sectoral trade union in retail has a volatile but significant number of secret trade union members, which are usually non-standard workers.

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

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

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

		Main development since 2008				Strategies: precarious work		
Sector	Labour market segmentation trends	Forms	Dimensions	Unions	Employers	Others/specific		
Construction	- widespread	- fixed-term, self-employment, part-time marginally, informal economy	- job security, unpaid overtime	- inclusion	- inclusion due to problems with informal economy	- both social partners support extension of the sectoral collective agreement		
Metal industry	- widespread, particularly since privatization of shipyards	- fixed-term, self-employment, part-time and TAW marginally	- job security (particularly in shipyards), unequal distribution of working time	-inclusion + separation	combination of approaches aimed at preserving the status quo and further expansion of non-standard employment	- negotiations on the sectoral collective agreement underway but progressing slowly - social partners press for the reform of vocational training		
Retail	- widespread	- fixed-term, part-time, student work (work outside of employment relationship)	-job security, low wages (particularly for part-time workers), unpaid overtime	-inclusion + separation	combination of approaches aimed at preserving the status quo and further expansion of non-standard employment	- negotiations on the sectoral collective agreement underway - polarization over work on Sundays		
Public health care	- moderate, due to shortages the LM segmentation is decreasing	- fixed-term, part-time marginally	- job security, atypical working time, unpaid overtime	- inclusion	- gradual inclusion due to shortages of workers	- polarization over distribution of working time; duty time for doctors and outsourcing		
TAW	- yes (part of segmentation)	- fixed-term employment almost entirely	- job security, since 2014 limited material rights assigned by collective agreements, lower wages and social protection standards could also be agreed	- inclusion in some companies	- combination of approaches aimed at further expansion	- NA		
National level	- moderate (in the public sector less segmentation) - the new Labour Act (2014) contributed to further segmentation since increased flexibility mainly applies to non-standard workers	- fixed-term, part-time, TAW, self-employment, work outside of employment relationship (student work, contract for work), occupational training	- job security most pressing issue (more than 90% of new employment is fixed-term)	- inclusion	- combination of approaches aimed at further expansion of non-standard employment	- 2014: new Labour Act introduced further flexibility in the LM - since 2008 the minimum wage has been set by the law, 38.8% of average earning in 2014		

Authors' assessment

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SAŽETAK

O projektu

Ova publikacija rezultat je projekta „PRECARIR – porast dualnog tržišta rada: suzbijanje prekarnog zapošljavanja u novim državama članicama putem industrijskih odnosa“, grant br. VP/2014/004/0066, financiranog uz potporu Europske komisije. Projekt se provodio od prosinca 2014. do rujna 2016. godine. Koordinator PRECARIR-a bio je Dublin City University (DCU) u partnerstvu sa sedam drugih europskih istraživačkih institucija. Jedan od partnera, Institut za razvoj i međunarodne odnose – IRMO, provodio je projektne aktivnosti u Hrvatskoj. Istraživanje je obuhvaćalo deset država članica EU-a: Hrvatsku, Češku, Grčku, Mađarsku, Latviju, Litvu, Poljsku, Rumunjsku, Slovačku i Sloveniju. U sklopu projekta analizirala se uloga institucija uspostavljenih u području industrijskih odnosa u svezi s promjenama na tržištu rada, osobito s porastom prekarnoga rada u EU-u. Projekt je istraživao na koji način strategije poslodavaca i sindikata diljem odabranih država članica EU-a predstavljaju interese nestandardnih radnika i ostalih ranjivih skupina u prekarnim oblicima zaposlenja.

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Projekt je bio usmjeren na analizu kretanja u četiri privatizirana sektora (metalna industrija, trgovina, građevinarstvo i agencijski rad) te u sektoru zdravstva, koji je uglavnom dio javnog sektora. U ovoj se publikaciji agencijski rad analizira u sklopu ostala četiri sektora zbog ograničenih aktivnosti hrvatskih socijalnih partnera u tom specifičnom području. Istraživanje u Hrvatskoj provedeno je od travnja do listopada 2014. godine, a odnosilo se na razdoblje od 2008. nadalje. Vezano uz metodologiju, u prvoj etapi izrade studije koristili su se analiza statističkih podataka o nestandardnom radu, dostupna literatura, zakonodavstvo, kolektivni ugovori te informacije s internetskih stranica i iz medija. U sljedećem koraku analiza je bila dopunjena rezultatima kvalitativnih intervjua. Za potrebe provedbe projekta u Hrvatskoj izrađena su tri strukturirana upitnika (za poslodavce, sindikate i stručnjake). Svaki upitnik odnosio se na općenitu problematiku projekta te na neke specifičnosti tržišta rada u Hrvatskoj. Na temelju strukturiranih upitnika u Hrvatskoj je provedeno ukupno šesnaest intervjua s predstavnicima socijalnih partnera u odabranim sektorima te drugim relevantnim dionicima. Po završetku nacionalnih studija, koordinator projekta i partner iz Slovačke izradili su komparativnu analizu rezultata svih nacionalnih studija.

Kontekst studije

Hrvatska je bila snažno pogođena ekonomskom krizom i gospodarstvo se trenutačno polako oporavlja od produljene krize s duplim dnom koja je bez prekida trajala šest godina. Hrvatska ima jednu od najnižih stopa sudjelovanja na tržištu rada u usporedbi s ostalim članicama EU-a, što naročito pogađa mlade. Stopa nezaposlenosti iznosila je 2014. godine 17%. U 2015. stopa se spustila na 16,3%, što je povezano s ekonomskim oporavkom, ali i migracijama u druge države članice EU-a (naročito u određenim profesijama). U 2008. godini Hrvatska je uvela minimalnu plaću (u 2014. bila je 322 eura) koja se izračunava na temelju pokazatelja prosječne plaće i stope BDP-a u prethodnoj godini. Od 2008. godine na nacionalnoj razini nije bilo porasta prosječnih neto primanja (734 eura u 2013.). Međutim, određene oscilacije zabilježene su u građevinarstvu i metalnoj industriji. Ekonomska kriza intenzivirala je porast nestandardnog i prekarnog zapošljavanja u Hrvatskoj. Pod naletom krize, nestandardni radnici prvi su izgubili zaposlenje. Međutim, kada su tvrtke počele ponovno zapošljavati, broj nestandardnih radnika među novozaposlenima bio je mnogo veći nego prije krize.

Fragmentacija na sindikalnoj sceni te jedinstvo poslodavaca predstavljaju važnu karakteristiku industrijskih odnosa u Hrvatskoj. Slabljenje socijalnog dijaloga kao instrumenta u donošenju politika može se promatrati kao posljedica recesije. Vlada je često donosila jednostrane odluke, a fokus kolektivnih ugovora prebacio se s plaća i ostalih materijalnih prava na održavanje zaposlenosti. Također, primjetna je decentralizacija kolektivnog pregovaranja s obzirom na to da je trend sklapanja ugovora na razini poduzeća u znatnom porastu, a istovremeno je prisutno znatno oklijevanje u pogledu zaključivanja novih sektorskih ugovora. Hrvatska međutim i dalje ima visoku sindikalnu gustoću od oko 30%, a pokrivenost kolektivnim ugovorom iznosi oko 40%.

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Oblici i udio nestandardnog rada

Od početka krize Hrvatska je dodatno flexibilizirala svoje radno zakonodavstvo. Najvažnije promjene provedene su 2014. godine u okviru novog Zakona o radu kojim su ublažena pravila vezano uz korištenje ugovora na određeno vrijeme i agencijskog rada, poboljšala se regulacija rada u skraćenom radnom vremenu te uveli instituti dodatnog ugovora o zapošljavanju, nejednakog rasporeda radnog vremena i detaširanja radnika. Tim se promjenama indeks zakonske zaštite zaposlenja smanjio sa 2,55 na 2,28. Te su se promjene međutim uglavnom odnosile na nestandardne oblike zapošljavanja što je pridonijelo daljnjoj segmentaciji na tržištu rada, pojačavajući jaz između dobro zaštićenih zaposlenika sa

standardnim ugovorima i ostalih zaposlenika koji se suočavaju sa sve većom nesigurnosti.

Najrašireniji oblik nestandardnog zapošljavanja u Hrvatskoj je rad na određeno vrijeme (16,9% u 2014.). Više od 95% novog zapošljavanja u 2015. godini odnosilo se na ugovore na određeno vrijeme, koji zasjenjuju sve ostale oblike nestandardnog zapošljavanja. Osim toga, određene kategorije zaposlenika (poput mladih) bile su iznadprosječno pogođene porastom zapošljavanja na određeno vrijeme. Analizom odabranih sektora u sklopu projekta pokazalo se da se od početka krize rad na određeno vrijeme u Hrvatskoj povećao u građevinarstvu i metalnoj industriji, a da je u trgovini stagnirao. U sektoru javnog zdravstva rad na određeno vrijeme smanjio se zbog pomanjkanja radne snage i relativno blagog učinka krize na javni sektor. Rad u skraćenom radnom vremenu još se uvijek marginalno primjenjuje, iako je njegova primjena u porastu od 2008. u sektoru trgovine i građevinarstva.

Privremeni agencijski rad prisutan je u Hrvatskoj uglavnom u prehrambenoj industriji i telekomunikacijama. Taj oblik rada malo se koristi u usporedbi s većinom drugih država članica EU-a. Uz to, koncentriran je u poslovima koji zahtijevaju nižu razinu vještina, a marginalno je zastupljen u poslovima koji zahtijevaju višu razinu vještina. Ugovori agencijskih radnika gotovo isključivo su na određeno radno vrijeme što ih čini vrlo prekarnima. Prosječno je trajanje privremenog agencijskog ugovora 11 mjeseci, no s obzirom na to da se radi o prosječnoj brojci značajne su varijacije trajanja takvih ugovora. Mogući razlog slabe zastupljenosti agencijskog rada jest nedostatak stranih investicija u proizvodna postrojenja, a ona u načelu najviše generiraju takav oblik zapošljavanja. Međutim, svakako treba naglasiti da je od početka krize agencijski rad u porastu, kao i ostali oblici nestandardnog rada. Od četiri analizirana sektora, privremeni agencijski rad marginalno se pojavljuje u metalnoj industriji, trgovini i zdravstvu i to uglavnom u sporednim djelatnostima vezanim uz čišćenje i osiguravanje objekata.

Samozapošljavanje se pojavljuje u građevinarstvu i metalnoj industriji, ali ne i u trgovini i javnom zdravstvu. Broj samozaposlenih osoba smanjio se za gotovo trećinu u razdoblju nakon 2011. godine. To je posljedica dugotrajnosti krize koja je mnoge samozaposlene radnike prisilila na bankrot zbog nelikvidnosti koja se povećala pod utjecajem krize i koja je sustavan problem hrvatskoga gospodarstva. Lažnu samozaposlenost iznimno je teško detektirati na hrvatskom tržištu rada, no vjerojatno je marginalno zastupljena u građevinarstvu i metalnoj industriji.

Studentski rad poseban je oblik rada koji u Hrvatskoj pripada u katego-

riju rada bez zasnivanja radnog odnosa. Od početka krize, zastupljenost tog oblika rada povećala se u trgovini, što je imalo negativne posljedice za perspektive već zaposlenih radnika u tom sektoru. Nakon 2010. godine u svim analiziranim sektorima, osim građevinarstva, koristilo se stručno osposobljavanje bez zasnivanja radnog odnosa. Plaće i naknade osoba na stručnom osposobljavanju financiraju se iz Europskog socijalnog fonda zbog čega je takav oblik rada poslodavcima vrlo privlačan.

Stavovi socijalnih partnera

Kriza je različito utjecala na četiri odabrana sektora koja se analiziraju u ovoj studiji. Sektor građevinarstva zabilježio je oštar pad u razdoblju nakon 2009. godine, a to se posebice odrazilo u padu zaposlenosti od oko 40%. Metalna industrija nije bila tako snažno pogođena krizom, uglavnom zbog orijentiranosti na izvoz i visoke kapitaliziranosti. Ekonomska kriza i smanjena potražnja negativno su utjecali na sektor trgovine. U 2014. godini promet u sektoru trgovine smanjio se 12,4%, u usporedbi sa 2008. godinom. Sektor zdravstva, kao dio javnog sektora, bio je zaštićen od jačeg utjecaja krize te nije doživio val otpuštanja kao sektori pretežno u privatnom vlasništvu .

Socijalni partneri u Hrvatskoj na različite su načine pristupili nestandardnom ili prekarnom radu, koji je u stalnom porastu. Općenita strategija sindikata uvijek je bila usmjerena na smanjivanje nestandardnog ili prekarnog rada. S druge pak strane, poslodavci su tvrdili da je povećanje fleksibilnosti nužno za neometano odvijanje poslovnih aktivnosti te da će Hrvatska biti manje konkurentna ne budemo li slijedili europske i svjetske trendove u tom području. Studija upućuje na to da sindikati u sva četiri sektora nastoje smanjiti nestandardno zapošljavanje i promovirati ono standardno, no za ostvarivanje tog cilja sindikati su koristili različite strategije. Na temelju rezultata istraživanja u Hrvatskoj može se zaključiti da su sektorski sindikati u građevinarstvu i javnom zdravstvu odabrali strategiju uključivanja nestandardnih radnika. Ona podrazumijeva da se kod kolektivnog pregovaranja, lobiranja, konzultacija i slično ne pravi razlika između standardnih i nestandardnih zaposlenika. U sektoru građevinarstva primjena ove tradicionalne strategije povezana je s iznimno snažnim negativnim utjecajem krize na sektor što sindikatima nameće druge prioritete i primorava ih na veću suradnju s poslodavcima. U javnom zdravstvu odabir strategije uključivanja rezultat je komparativno malog broja nestandardnih radnika te internih konflikata između sektorskih i profesijskih sindikata.

Rezultati istraživanja u metalnoj industriji i trgovini pokazuju da su sektorski sindikati primjenjivali mješovite strategije prema nestandardnim

radnicima, kombinirajući elemente uključivanja (nerazlikovanja) s elementima odvajanja (tretiranje takvih radnika kao posebne skupine). Elementi odvajanja u strategiji sektorskog sindikata metalne industrije odnose se na praksu ograničavanja broja nestandardnih radnika u brojnim kolektivnim ugovorima na razini poduzeća. S druge pak strane, u sektoru trgovine elementi odvajanja uglavnom se odnose na praksu dodjeljivanja prioritarnog statusa zaposlenima na određeno vrijeme prilikom novog standardnog zapošljavanja u kolektivnim ugovorima na razini poduzeća.

Cilj je hrvatskih poslodavaca održati *status quo* te dalje povećavati nestandardno zapošljavanje. Iako je to uobičajeno djelovanje dominantno među poslodavcima u metalnoj industriji i trgovini, studija pokazuje da to nije slučaj u građevinarstvu i javnom zdravstvu, gdje poslodavci uglavnom podupiru uključive strategije sindikata. Razlog je to što su poslodavci u sektoru građevinarstva suočeni s brojim problemima koje dijele sa sindikatima, prvenstveno vezano uz neformalnu ekonomiju i nepovoljna pravila u javnoj nabavi. S druge pak strane, u javnom zdravstvu poslodavci podupiru uključive strategije zbog ozbiljnog manjka kvalificiranih radnika.

Zaključak

Zakon o radu najvažniji je zakonski akt kojim se uređuju radni odnosi u Hrvatskoj, a od 1996. godine donesene su njegove brojne izmjene i dopune. Većina promjena nije znatnije utjecala na fleksibilnost tržišta rada jer su se odnosile na harmonizaciju s pravnom stečevinom EU-a koja se marginalno odnosi na to pitanje. Ulazak u EU ipak je usmjerio Hrvatsku prema većoj fleksibilnosti na tržištu rada s obzirom na učestale kritike Europske komisije vezano uz rigidnost tržišta rada. Promjene Zakona o radu koje su se odnosile na fleksibilnost u pravilu su se donosile na inicijativu Vlade. Socijalni partneri aktivno su sudjelovali u procesu donošenja tih promjena, ali su često iznosili suprotstavljena stajališta.

Navedene zakonodavne promjene u kombinaciji sa snažnim utjecajem krize rezultirale su značajnim porastom nestandardnog rada u Hrvatskoj. Socijalni partneri u odabranim sektorima analizirani u ovoj studiji odabrali su različite pristupe nestandardnim radnicima. Unatoč tome, u studiji se zaključuje da socijalni partneri u promatranim sektorima tek iniciraju proces oblikovanja inovativnijih i dugoročnijih pristupa nestandardnom radu. Strategije opisane u studiji uglavnom predstavljaju kratkoročne odgovore koje treba dalje razvijati. Navedeno prvenstveno predstavlja izazov za sindikate koji se suočavaju s kontinuiranim smanjivanjem članstva, pa stoga za njih ispravan pristup nestandardnim

radnicima ima presudnu ulogu. Stoga bi dugoročno strategije sindikata vezano uz nestandardni rad trebale proširiti fokus sa kolektivnog pregovaranja te ponuditi jasne strateške smjernice za djelovanje prema tijelima javne vlasti i poslodavcima.

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ABOUT THIS BOOK

This book addresses a topic which has not been sufficiently researched in Croatia and is also not much debated in public. Its main scientific contribution emerges from the fact that it provides a basic insight into the distribution of various types of precarious work in four selected sectors of the Croatian economy, with trends during the period of economic crisis (2009–2014). The book also gives insights into the basic positions of the relevant social partners in selected sectors concerning various forms of precarious work. It describes unilateral and bilateral efforts of the social partners to regulate the appearance and spread of the various types of precarious work through collective agreements or other conventions.

Dragan Bagić, Ph.D

New, insecure forms of work increasingly represent part of the social and economic development of contemporary society. The authors of this book argumentatively and clearly explain the challenges the Croatian labour market encounters in circumstances of great social change. They successfully describe the characteristics and the importance of precarious work in Croatia.

Predrag Bejaković, Ph.D
