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REDUCING PRECARIOUS WORK IN EUROPE THROUGH SOCIAL DIALOGUE: The Case of Slovenia

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Executive summary

Part one: Protective gaps

In the past 25 years, changes in the Slovenian labour market were promoted by different policy measures and economic and social processes, such as: economic restructuring and privatization, the inevitable pressures of the international environment and adaptation to EU standards and European employment policy, bankruptcies and mass redundancies in times of crises. The labour market has responded to such changes on its own – with greater flexibilization (increasing share of workers with flexible contracts, such as fixed-term, part time contracts, student work, civil work contracts and self-employment) and intensification of work for those that retained their employment. As a consequence, there was a greater segmentation of work, greater differences in social security among employed with different types of contracts.

Despite the problems in the increasingly segmented labour market, until the 2008 Slovenia was considered as one of the most successful transition countries, with fast declining unemployment, very low poverty rates, low inequality and growing GDP. This has changed somewhat with the economic and financial crisis. These trends include an increasing proportion of Slovenian workforce and have multidimensional consequences: deterioration of living and working standards, increased psychosocial risks (dissatisfaction of the Slovenian workers with the working conditions), increased the sense of precariousness among the Slovenian labour force and the increase of at-risk-of poverty rates in Slovenian society. Growth of at risk of poverty rates, especially after 2008 was evident in all segments – especially among unemployed and flexibly employed, indicating a very large differences in society and a strong dependence of individual's living standards on its activity status in the labour market. In-work poverty rates are highly dependent on the type of employment contract and form of employment/work performed in the labour market. Generally, the higher at-risk of poverty rates are also highly correlated with the low wages and sectors where such low wages are more frequent. Furthermore, low wages in presented sectors are the consequence of the effect of many additional factors – among them is the presence of a combination of more flexible forms of employment in one employment contract.

The abovementioned trends which influence the flexibilization process in Slovenian labour market are bringing also problems regarding further segmentation of the labour market, based mainly on the age of those employed in flexible forms of employment. Young population (aged between 15 and 24) does not have many options but to accept flexible forms of employment offered by employers. This lack of alternatives in choosing the type of employment is producing 'hoarding' of young people in certain flexible forms of employment, in particular in fixed-term and part-time employment. In both forms, the proportion of such young recruits among all economically active young people is among the highest in the EU. Furthermore, this causes some additional problems for the youth: low financial independence causing inability to rent or buy their own accommodation and furthermore prolonging the time of marriage and getting first child.

Recent changes of the Employment Relationship Act (ERA-1, 2013) aimed, according to the authors, to establish the appropriate balance between adequate protection of workers and the ability to effectively adapt to market conditions. The starting point for preparing new Act

was the need for relative equalizing the statuses of employees employed in regular employment for an indefinite period of time in relation to employed with fixed-term contracts or other forms of flexible employment in order to reduce segmentation in the labour market and high labour costs. Its implementation, on the other hand, was perceived as reducing some rights of those employed with permanent employment contract and increasing somewhat the rights of those employed in flexible employment/working contracts. This in practice means reducing the overall standards and rights of the Slovenian labour force.

The permanent employment contract is the typical – standard form of employment relationship in Slovenia. The Employment Relationship Act defines it as a starting point for regulating all other employment contracts. The contract is signed for an indefinite period, unless the law otherwise specifies. Compared to other types of employment contracts (eg. employment contract for a fixed term, a part-time employment contract, or agency contract), the worker with the permanent employment contract is guaranteed the full range of workers' rights, as well as social rights. Thus, at least on the paper, such contract provides a significant level of security in terms of the duration of the employment relationship and in terms of worker's rights and social security. Due to the relatively large corpus of rights which are to be ensured by the employer directly (through the provision of workers' rights) or indirectly (through payment of social security contributions and taxes) such employment contract is rather expensive (in comparison with other forms of employment) for the employer. On the other hand it should provide relatively loyal and motivated employees. In comparison to this type, fixed-term, part-time and agency contracts have the same rights in proportion to the duration of work determined in the contract.

Regardless to relatively well secured position in Slovenian labour market, permanent employees are also encountering several issues related to decreasing standards and the difference between legal provisions and the situation in practice. Some of the **in-work regulatory gaps** are: *eligibility gaps* – especially eligibility to unemployment benefit set by several criteria. Regardless to the positive changes made with the introduction of LMRA, there are still groups of employees which are not eligible for the unemployment insurance: fixed-term employees with less than 9 months of employment in last 24 months, other forms of work and first-job seekers (younger than 30 years of age and registered less than 6 months at the Employment Service of Slovenia). *Minimum standards gaps* are related to the actual level of the minimum wage set in by the Slovenian state. Despite critiques of its relatively high increase, it is still right on the minimum cost of living threshold. *Upgrading gaps* are related mostly to the austerity measures introduced by the Fiscal Balance Act adopted in 2012. Introduced with the intention to enable the fiscal consolidation of public finances, the Fiscal Balance Act has rather negative influence on the Slovenian economy and labour market as well as on the Slovenian society. Furthermore, budget cuts and overall financial crisis in Slovenia affected the implementation programmes within the five different segments of Active Employment Policy in Slovenia. With already well below EU average spending on Active labour market policy measures, Slovenian ALMP programmes are even more dependent on ESF funding.

Beside the effects on the unemployment benefit transfers and (A)LMP measures, the Fiscal Balance Act also affected the situation in the Slovenian public sector with temporary restrictions in new employment in public sector, promotion of those already employed in public sector, and with freezing the wages. Some of those measures (restrictions in

concluding civil law contracts – copyright or work contracts, and student work) could actually reduce the segmentation in the Slovenian labour market as a collateral effect. But overall, the implementation of Fiscal Balance Act in public sector could mean potential feminization of precarization in Slovenian public sector where women are predominantly employed. *Integration gaps* – Slovenian labour market is characterised by strong segmentation on the age basis (prime age workers in standard and secure employment and predominantly young population in flexible forms of employment).

Representation gaps are also quite important in Slovenian labour market. Among them there are: *institutional gaps* – with the transition from obligatory to voluntary membership, both employers' and trade unions' representative bodies lost their previous quantitative strength.

Involvement gaps – regardless to the declining membership, Slovenian trade unions still have relatively strong position in the tripartite negotiations. The collective agreements coverage is still almost 100 % in sectors with collective agreements. On the other hand they are still predominantly representatives of the workers with standard form of employment – permanent full-time employment. While formally, they represent also workers in other, more flexible forms of employment, sometimes the interests of those two major groups collide in practice. In such occasions trade unions are usually on the side of the former group. Furthermore, workers in flexible forms of employment are less active in trying to become members of trade unions and often even discouraged by their employers to do so. Thus, in practice, workers in flexible forms of employment/work are less represented by trade unions. Usually, they do not have their representatives in the major trade union confederations.

Enforcement gaps: Mechanism gaps – according to the interviewed and other experts, Slovenia has modern labour market legislation that provides relatively high protection to the Slovenian workers. On the other hand, there is also quite unanimous understanding that there is a big gap between legal provisions provided in the labour legislation and practice. As one of the most important institutions in preventing violations of the labour legislation, the Labour Inspectorate of RS has become more active in the recent years which is showing in the number of performed supervisions and the number of violations detected. *Awareness gaps* – often changing legislation is one of the factors. Numerous and frequent amendments to the legislation related to the labour market and social security make it difficult for employers, HR managers and especially employees/workers to stay informed about their obligations and rights. *Coverage gaps* – there is a problem of unknown extent of unregistered workplaces, informal and illegal employment in the Slovenian labour market as well as unknown (at least officially) extent of civil contracts.

Social protection and integration gaps: Eligibility/entitlement gaps in social protection occur due to the type of employment/work contract between the employer and worker/employee. More flexible forms of employment have only proportionally covered social protection.

Part two: Case studies of social dialogue

The three cases analysed in the second phase of this research project showed that there are different situations in which particular group, occupation or profession finds itself and different approaches towards solving the situation – more or less through the social dialogue. Thus, journalist are taking more individualistic approach, retail workers are taking more classic path – social dialogue on the sectoral level, while youth is divided to more individualistic majority and smaller part that is attempting to take more inclusive, proactive role by addressing the precarity issues on national level as, more or less, equal partner in the social dialogue.

Case 1: Youth

Slovenian youth labour market shares the fate of the entire Slovenian labour market (particularly as regards the impact of economic trends, trends in employment and unemployment), but, on the other hand, has some important features, that have impact on the situation of young people in the labour market and in society in general. Their great flexibility regarding employment (fixed-term and part-time, various forms of student work, and temporary or occasional work), affects the frequency of transitions between jobs and the incidence of unemployment, which significantly affects their full economic and social independence. Young people are specific labour force, which is characterized by lack of work history and experience. At the same time they are often carriers of new skills from the educational process, and a number of social (and technical) skills and competencies.

Regardless to that advantages, the current economic situation and employers' demand transformed predominantly into flexible forms of employment and work are making youth's transition from education to work and its life in such world more difficult. According to the interviews made, Slovenian youth feels insecure and does not see clear future in Slovenian society. Thus, many of young people are prolonging their studies at the university level, waiting for better times and better opportunity in the labour market in the future. At the same time, they are taking advantage of the student work (reserved only for students and pupils). Thus they are forced to postpone future planning and structuring of the private and professional life. For those already involved in student work, there is another disappointment – which they are sometimes earning more as waitresses or waiters than in their future professions. Some of them are thinking of leaving Slovenia in order to find more secure and better jobs. Those lucky enough to have job already in Slovenia are reporting different forms of exploitation (low wages, extensive hours, bad working conditions) and with that related health problems and burnout. The majority of young people does not have any response to such circumstances. They are resigned, pragmatic and usually use short term survival strategies – taking any job available without any resistance and not thinking about any collective resistance strategies.

On the other hand, there is much smaller group of proactive young people that are trying to address precarity issues through collective action on the national level. Three associations appeared in the recent period, established by young people that are addressing abovementioned issues: Movement for Decent Work and Welfare Society, Trade Union Mladi plus (Youth Plus) and Trade Union of Precarious Workers (established on 7.10.2016).

Case 2: Journalists and other media workers at the RTV Slovenia

The area of Slovenian media is not exempted from the overall processes of precarization of Slovenian labour market. As in the other parts of the Slovenian labour market there are several factors that are affecting the field of journalism: privatization and commercialization of the media from the beginning of the 21. century, continuing pressures on labour costs, technological changes and with that related changes in ways the work is done, structural changes, and the processes that affect the entire economy (economic crisis).

The case of Slovenian journalists is probably most visible, but there are many other occupations (editors, cameramen, directors etc.) in the field that are affected as well. The main issue regarding those occupations and professions is changes in the employment contracts they receive and with that related changes in their social security. Changes in the ownership structure of Slovenian media have brought different power structure in those media and with that higher pressure on managers to increase production and lower the labour costs. Since the labour rights for regularly employed are collectively and individually relatively better regulated than for those in civil work contracts, there is a constant pressure on managers to reduce the number of regularly employed and increase the number of freelancers that are employed under civil work contracts (copyright contracts).

The existence of different types of employment (regular employment for permanent or fixed-term duration) and work contracts in Slovenian (freelancers, independent and self-employed journalists) media means that there are also producing several gaps between them: social protection, enforcement and representation gap as most important ones.

One of the most important consequences of the abovementioned trends of increasing precarization of Slovenian media space is further de-professionalization of all professions related to this activity as well as increased individualisation among journalists accentuated by the inability to make collective lawsuit against the employers. Trade unions can offer some legal support but individuals have to endure lengthy (usually few years), stressful and money consuming trials on their own.

Journalists in RTV Slovenia, which is public service of special cultural and national importance, are treated as state employees. On the other hand, RTV Slovenia treated its journalists as any other media house, increasing the share of precarious workers (journalists, cameramen, editors, directors) with civil work contracts. Many of them are working in such contracts for a decade or two without any signs that their contract would be changed into employment contract soon. In September 2007 the Section of contractual (independent and freelancers) journalists was established operating within the Slovenian Union of Journalists, with objective to improve their status in all editorials.

After relatively long time of avoiding the issues related to precarious workers in RTV Slovenia, and partly forced by the activities of trade unions' associations, the top management signed the agreement on the employment of part-time employees of RTV Slovenia with three trade unions at the RTV Slovenia and the Slovenian Union of Journalists. The agreement stipulated that RTV Slovenia should give regular employment to more than 250 of its workers that were employed until now with civil work contracts regardless to the determined existing elements of the employment contract. Until January 2016 RTV Slovenia employed 150 such workers and until the end of 2016 it will employ 100 more.

Case 3: Retail workers

The retail sector in Slovenia has been characterized by the fast growth of private companies due to privatization of former socialist-run companies as well as the entrance of foreign commercial chains from 1991 on. The sector's rate of collective bargaining coverage is 100% and the social partners (two trade unions and three employer organizations) all evaluated sectoral social dialogue in 2009 as quite successful.

However, representatives of the sector's main trade union were also critical of the low wages within the sector and the huge differences in working conditions between different employers, where laws and collective agreements are not carried out. Wages in the retail sector are lower than the average wage in Slovenia, and differ considerably by gender.

In the retail sector, there is a high level of precarious employment, the long working hours, and the work intensity built into the organizational culture in retail organisations. Main forms of flexible employment practices are: part time work, fixed-term contracts (students, agency workers and foreign workers), forced self-employment, shift and Sunday work).

Part time work (as a very intense form of work) has been introduced by foreign retail employers in order to accommodate need for flexible organisation of work. For workers employed for 25-30 hours per week many of whom work on unpredictable schedules and often also overtime this work organisation causes negative short and long-term consequences. Namely, the part time employment is connected with partial social security contributions i.e. retirement basis. Trade union representatives reported on much longer working hours of these workers who are formally employed on part-time contracts and on existence of double or triple evidences on working time (one real for workers, the other for managers and third for inspectors).

Based on findings of the presented analysis we could conclude that in the retail there exist enforcement gaps connected to the divergence between the relatively high standards of the Slovenian labour legislation and regulation on one hand and practice on the other.

Our analysis showed that increasing precarity in the retail in Slovenia encompass both decrease of quality of work of regularly employed workers (more of different work tasks, longer working hours, breaches of rights regarding rests, working time, etc.) and proliferation of precarious forms of employment and work (part-time work, student work, agency and migrant work being the most important).

Reactions of the trade unions on the increased flexibility and decreased standards of working conditions in retail sector could be seen as innovative in a certain sense as they replace the traditional representation and fight for workers interest with "mending" strategies aimed to mitigate the consequences of the precariousness.

Some efforts to mitigate negative consequences of precarious work are done in collaboration with employers and their associations. An example of that are numerous training and information projects/programmes dealing with health and safety e.g. stress at work, but mainly oriented to individuals. Employers and trade unions are thus supporting individual coping strategies with working conditions that are consequence of erosion of working standards – previously existing secure jobs and decent wages.

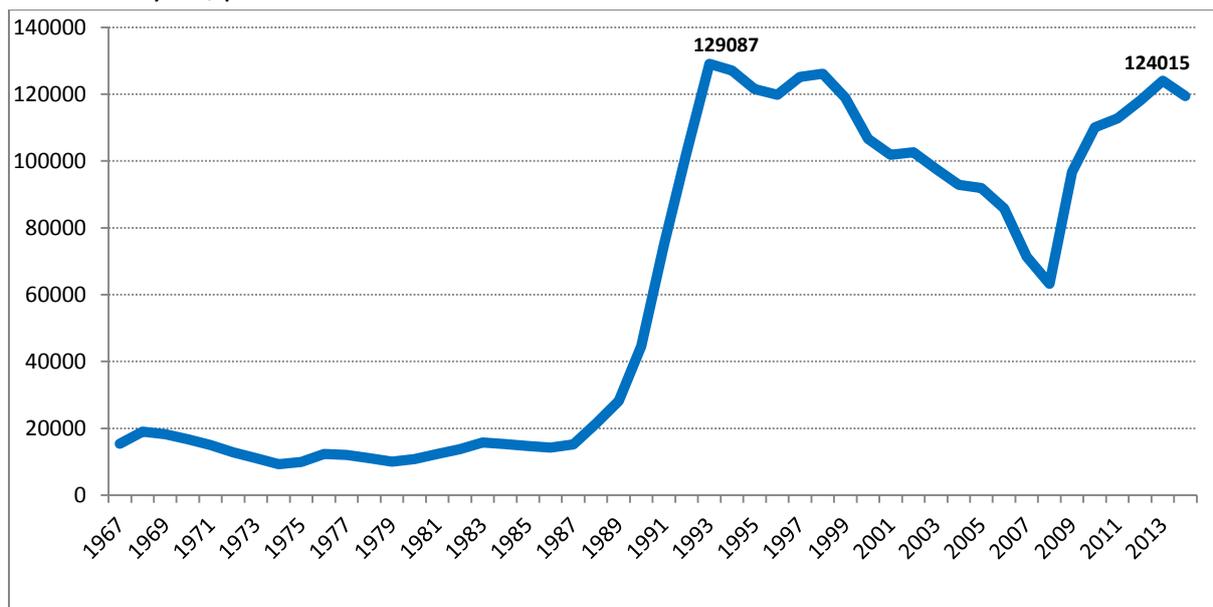
One of the recently organised trade union events – a conference on working time in retail - was an opportunity for social partners to discuss the problems regarding working time most of which are connected to breaching of the existing regulation. The conclusions of the conference envisaged education activities and joint work of social partners on explanation of the regulation (Collective agreement). This form of collaboration of social partners in retail could be seen as positive. However, it is questionable whether direct violations of existing legislation should be treated as a problem that is to be solved by education.

PART ONE. PROTECTIVE GAPS

1 Introduction

In the past 25 years of Slovenian independence, Slovenian labour market and economy experienced two major economic crises – one in the beginning of 1990'ies (related to the disintegration of Yugoslavia, transition from socialist to market economy and loss of markets in other Yugoslavian republics) and second in 2009 (related to global economic and fiscal crisis). Both crises had one common effect – steep increase in the number of unemployed (with the highest numbers in 1993 and 2013, see Chart 1.1)

Chart 1.1: The number of unemployed registered at Employment Service of Slovenia at the end of the year, period 1967-2014



Source: ZRSZ 2015

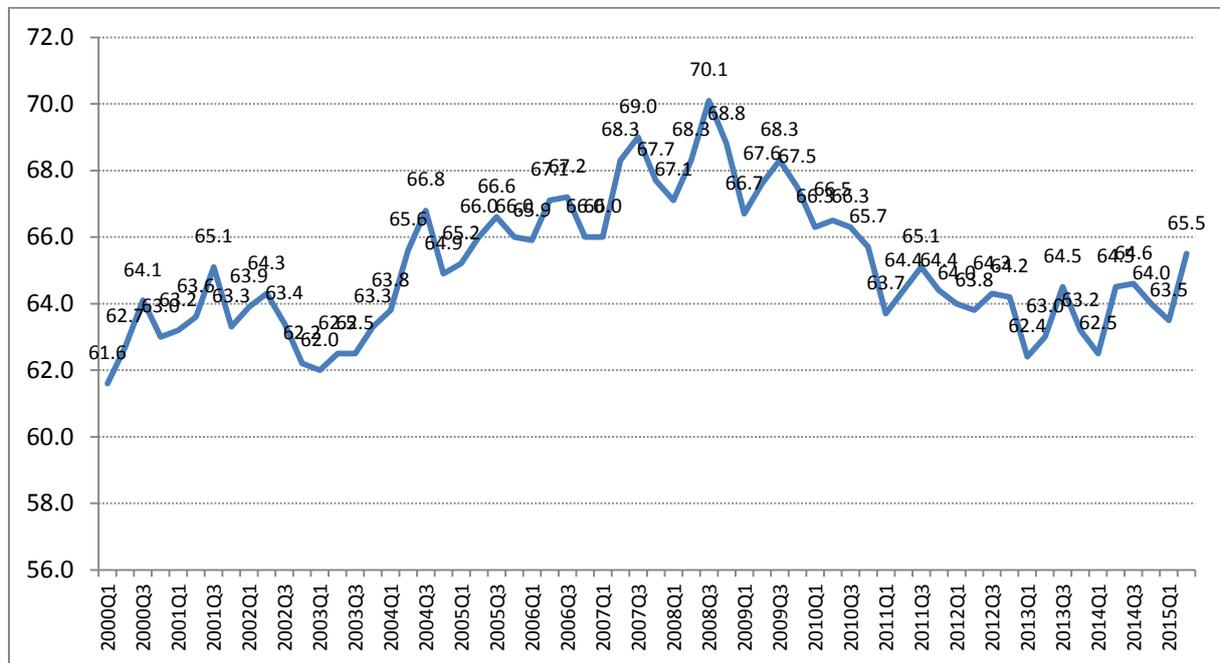
At the beginning of the first economic crisis, Slovenian labour market was considered very rigid with almost entire workforce employed in full time jobs for indefinite period. Despite the dramatic increase in the number of unemployed in very short period, the measures applied in this period (changes in the pension and education systems and introducing different passive and active employment policy measures) were in accordance with the overall principle mentioned in the introduction of this article – gradualist approach. The usage of predominantly passive employment policy measures (for Slovenia relatively wide coverage of unemployment benefits and early retirement schemes) helped maintaining relatively high social security level, but soon it became clear that it would be financially impossible to maintain it in long term. Thus both systems, the labour market and social

security, started to gradually change their foundations. Some of the changes in the period 1990 to 2000 could be summarised in the following points (Ignjatović et al, 2002: 211-212):

- The subsidiary nature of cash benefits is strongly emphasised. The aim to provide social security via employment has come to the fore. However, employability is becoming more central objective of social policy than reaching full employment.
- The rights of workers have become more closely related to their responsibilities. The payment of insurance contributions is by no means a sufficient condition for one to receive benefits. Compliance with a number of other rules set by the state has become necessary.
- An increasing stress (at least in different legal and strategic documents) is on the active and activating measures as opposed to the passive ones, which have also been increasingly applied in an active way. A much higher level of individual's activity is required.
- Employment policy programmes have become more refined, more selective and more precisely focused on target groups. They have become more concerned with costs and effectiveness. Increasing attention is paid to their side effects, monitoring and evaluation, despite the fact that last two activities (monitoring and evaluation) are still underdeveloped.
- Employment policy is becoming increasingly individualised, that is, adjusted to the needs and special position of every individual. So-called tailor-made employment plans prepared for individuals were put into practice. Employment offices were expected to prepare employment plans in co-operation with the unemployed within certain period (three months in 1990'ies that became two months in recent period) of one being registered. Unemployed people should participate in the preparation of a plan and sign it to confirm their responsibility to act accordingly. Certain job-searching activities and/or enrolment in employment programmes are previewed and reporting on those determined.
- National employment policy is increasingly influenced by the EU directives, recommendations and guidelines.

The trends described above continued also through the first decade of 21st century. This period can be divided in two parts. One is pre- and post-accession to EU period (2000-2008) in which Slovenia experienced relatively high economic growth and growth in employment.

Chart 1.2: Employment rate in Slovenia for the 2000-2015 period, quarterly data LFS



Source: Eurostat 2015

This period is also characterised by further transformation of the labour market – one important change was abolishment of the unemployment financial assistance (in 2006) as one of social security components for unemployed. The second period was after 2008 and is characterised by the economic crisis and quick worsening of the economic and labour market situation in Slovenia.

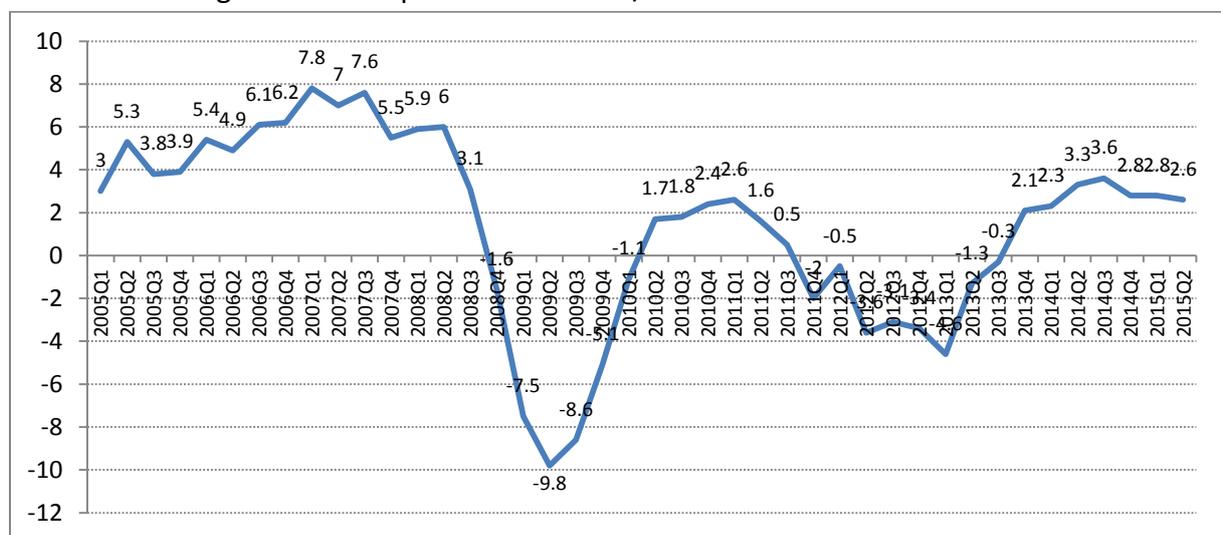
Overall, in the past 25 years the main structural problems related to the Slovenian economy and labour market remained the same: relatively traditional structure of the economy with slow transformation and low share of companies oriented towards global market, relatively high social contributions and high tax burden on wages, persistence of structural unemployment (increasingly accentuated by young university graduates failing to find a job in slowly transforming economy) and high shares of long-term unemployment.

On the other hand, one of the important trends related to the Slovenian labour market in the last 20 years is increasing segmentation and the widening gap between workers with the secure permanent contracts and increasing share of workers with flexible contracts, such as fixed-term, part time contracts and student work (see Kajzer 2011, Ignjatović 2002, 2011, Kanjuo Mrčela & Ignjatović 2015). These more flexible forms of employment have been increasingly used by the employers to lower the labour costs and increase flexibility of the companies. The younger population can most often be found in these more flexible and often more precarious forms of employment. For example the share of young (15-24 years

of age) with fixed-term contracts among all employed youth is among the highest in Europe – 69.1% (Eurostat 2015).

Despite the problems in the increasingly segmented labour market, until the 2008 Slovenia was considered as one of the most successful transition countries, with fast declining unemployment, very low poverty rates, low inequality and growing GDP. This has changed with the economic and financial crisis. GDP growth, which was relatively stable from the beginning of the nineties until 2008, declined significantly (from 6% in second quarter of 2008 to -9.8% in the second quarter of 2009, see Chart 1.3), and only recently (in 2014) the Slovenia has again registered positive GDP growth. Thus the real growth rate of GDP in 2009 was -7.8%, and in 2014 it was 2.6% (SORS 2015).

Chart 1.3 : GDP growth in the period 2005-2015/2 in Slovenia



Source: SORS 2015

The negative impact of economic crisis (from 2008 onwards) was evident also in the labour market, where there was another rapid growth in the number of unemployed and of the unemployment rate. This was accompanied with growing poverty rates and growing social exclusion. Despite these negative trends inequality remained low and was in 2010 one of the lowest in EU 27. The at-risk-of poverty rate was 12.7% in 2010 and 14.5% in 2013 (SORS 2015). Recognising the increasing vulnerability of the population, in 2009 the government introduced special allowance for those most in need (Special Allowance for Socially Disadvantaged Persons Act).

After the start of the crisis there has been an increasing pressure from part of policy makers and the economic sector to adopt more radical labour market reform, including the further flexibilization of the employment contracts. On the other hand the policy makers have been faced with increasing number of unemployed and also increasingly numerous groups that fall out of existing benefit and insurance schemes due to irregular employment patterns. The initial response of the government to the financial crisis was absorbing the shock and

interventions in the labour market that would reduce the increasing unemployment. It adopted two temporary measures/Acts. First was partially subsidizing of full-time work for part time workers Act. This Act aimed to ease the effects of the advancing financial crisis by providing assistance to employers in the case they decide to preserve their workforce by shortening working time (from 40 to 36 or up to 32 hours per week) instead of laying them off. The Act was based on the principle that economic measures taken during the financial crisis should seek to ensure employment and maintain jobs, including the incentives to shorten working time by partly subsidising full-time work. Second was Partial Reimbursement of Payment Compensation Act. The aim of the measure was also to preserve as many jobs as possible (up to 25000) by introducing the “temporary waiting on the job” (temporary lay-off) institute – workers on the waiting list were entitled to 85% of the wage (50% covers the state and 35% the employer). In 2009 approximately 4.8% of employed were included in these two schemes (UMAR 2011). Both measures, which were intended to preserve jobs and thus prevent the inflow to unemployment, were actually used for buying time for consolidation of enterprises and for the preparation of new measures and documents which would have long-term influence on the labour market.

The response to crisis through wage policy has been according to evaluation of experts (UMAR 2014a) slow and delayed, partly also due to the change of the wage system for the public employees, implemented in 2008. Act of Intervention Step because of Economic Crises (2010) has limited the envisioned growth of salaries of public employees, as well as limited the increases of transfers and pensions (freezing the indexation).

In general, the trend in the employment policy has been toward greater emphasis on the activation, but also in increasing flexibility of the labour force. Being aware of the potential consequences of an increase in flexibility in the Slovenian labour market, the 9th Slovenian government, which started in 2008, sought to implement the comprehensive concept of flexicurity as well as activation principle in Slovenian society.

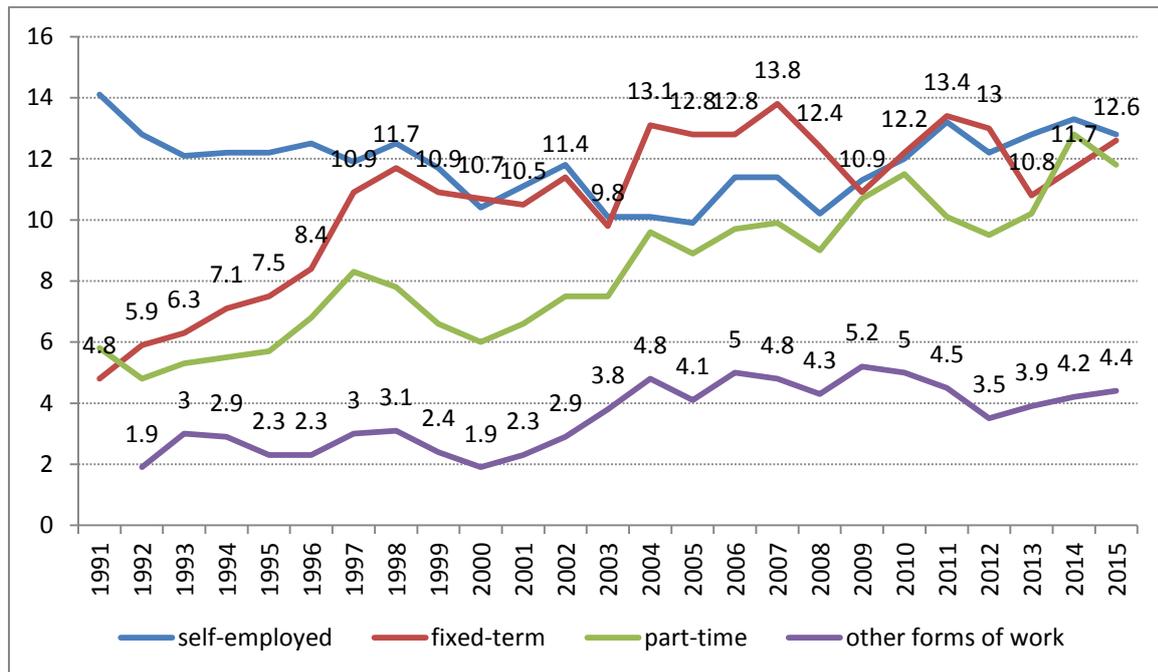
2 Flexibilization of the Slovenian labour market and its consequences

In the past 25 years, changes of the Slovenian labour market were promoted by different policy measures and economic and social processes, such as: economic restructuring and privatization, the inevitable pressures of the international environment and adaptation to EU standards and European employment policy, bankruptcies and mass redundancies in times of crises. The labour market has responded to such changes on its own – with greater flexibilization and intensification of work for those that retained their employment. As a consequence, there was a greater segmentation of work, greater differences in social security of employed and unemployed people.

From the beginning of the 1990s Slovenian labour market was regarded as relatively rigid and inflexible, but some important changes in the structure of the employment happened in the past period. In addition to full-time permanent employment, with which are also linked numerous benefits (including higher social security), new flexible forms of employment have grown in recent years. In the context of the Slovenian labour market, these are mainly fixed-term contracts, part-time work, student work (even as a form of labour market flexibilisation) and self-employment. We will present abovementioned flexible forms of employment more detailed in the following chapters.

As Chart 2.1 shows, the shares of fixed-term and part-time employment among Slovenian persons in employment increased noticeably, while the share of self-employed remained relatively stable from the 1990ies onwards.

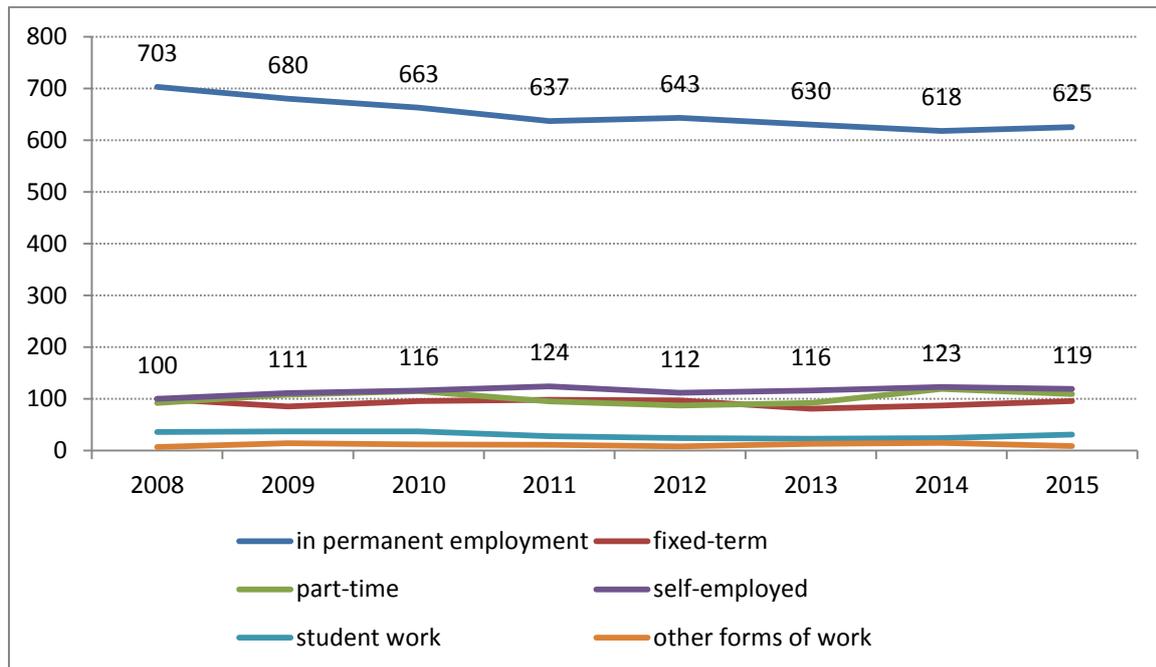
Chart 2.1: Shares of flexible forms of employment among persons in employment, Slovenia 1991-2015, LFS data 2 quarters



Source: SORS, LFS data

On the other hand, it seems, as the chart 2.2 reveals, that, at least in the most recent period (2008-2015), the shares of flexible forms of employment increased mostly due to the noticeable decrease of the number of persons in permanent employment from the beginning of the (global) economic crisis, which also affected the Slovenian labour market and economy.

Chart 2.2: Number of persons in different forms of employment/work in Slovenia, 2008-2015, 2nd quarters, LFS



Source: SORS 2015, SI-Stat Data Portal, LFS data

In addition to increased shares of flexible forms of employment and other forms of work, Slovenian labour market is increasingly faced with other effects of globalization on the one hand, and the desire of entrepreneurs to reduce costs on the other. Both trends (in addition to the economic crisis and other factors) significantly influence the deterioration of working conditions, lowering the living and working standards and a general increase in risk of poverty and precarization in Slovenian society. These trends include an increasing proportion of Slovenian workforce.

2.1 Psychosocial risks

A number of studies, including the fifth European study on working conditions (carried out in 2010), funded by the European Foundation for the Improvement of Living and Working Conditions, pointed to the deterioration of working conditions in the Slovenian labour market.

One of the most important findings of the survey for Slovenia is that Slovenian workers, men and women, compared with the European average work more and are less satisfied with their working conditions (Kanjuo Mrčela and Ignjatović 2012). Already detected increase in work intensity from the beginning of the 21st century in Slovenian labour market was also confirmed in this study, as the proportion of male and female workers who work more than

70 hours per week (both paid and unpaid work) was much higher in Slovenia than in the EU 27.

Table 2.1: Workers working more than 70 hours per week (%)*

	Slovenia	EU 27
total	28.1	21.8
men	17.3	13.6
women	41.0	31.7

*(paid and unpaid work index)

Source: Kanjuo Mrčela and Ignjatović 2012

It should be noted that there is a big difference between men and women in the EU-27 and Slovenia in the number of working (paid and unpaid) hours, but in Slovenia this difference is significantly higher, as 17.3% of men and 41% of women work more than 70 hours per week.

The deterioration of working conditions (partly due to the economic crisis, partly due to the other factors) in the Slovenian labour market, leads to increased dissatisfaction of the Slovenian workers with the working conditions. Slovenian workers are less satisfied with their working conditions than the average workers in EU27, somewhat more dissatisfied are women.

Table 2.2: Workers not satisfied with working conditions (%)

	Slovenia	EU 27
total	25.8	15.7
men	24.7	15.7
women	27.0	15.6

Source: Kanjuo Mrčela and Ignjatović 2012

Deterioration of the situation in the Slovenian labour market, in particular increased layoffs and reduced capability of producing new jobs have also increased the sense of precariousness among the Slovenian labour force. This is significantly higher than the average in the EU-27: more than a quarter of men surveyed (27.4%) and women (26.5%) are afraid that in the next six months they will lose their jobs (Kanjuo Mrčela and Ignjatović 2012).

Increasing job insecurity in the Slovenian labour market was also influenced by the fact that Slovenian workers are far more likely to go to work regardless to their health status (59.2%) than the average workers in the EU 27 (39.2%). Moreover, 63.1% of Slovenian women and 55.9% of men reported presenteeism (presence at work despite illness). Compared with the average in the EU-27 more Slovenian workers have not been on sick leave in the last 12 months.

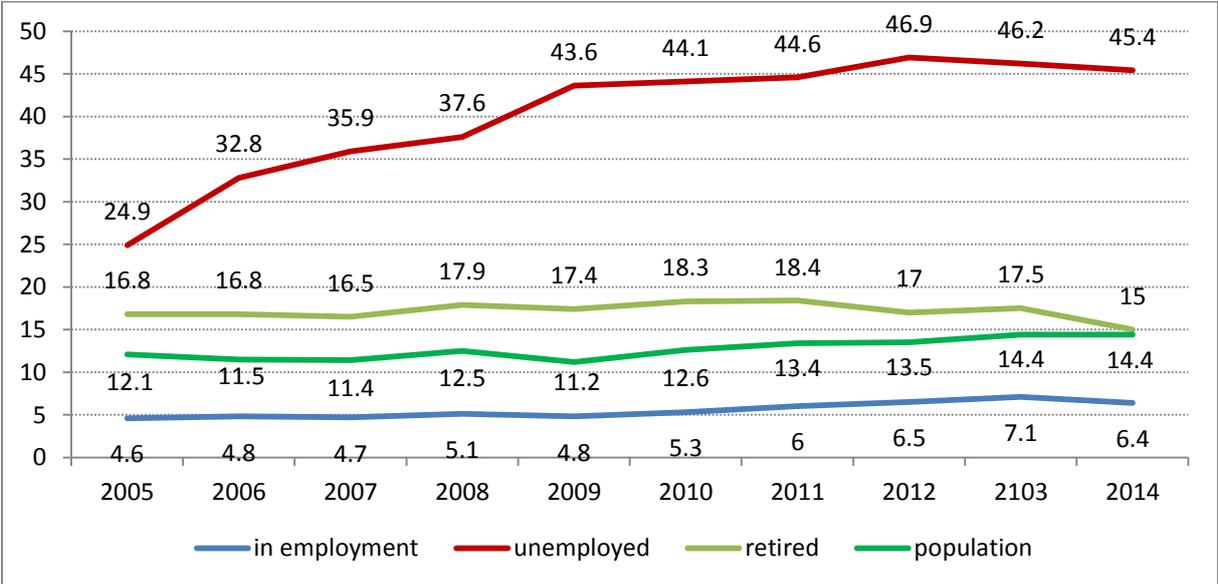
Compared with the average in the EU-27 significantly more Slovenian men and almost twice as many Slovenian women believe that work has mostly negative impact on their health (the most frequently indicated health consequences are nervousness, sleep problems and muscle tension). In addition, 42.9% of respondents (38.6% men and 47.9% women) reported that in the last 12 months they suffered from general fatigue, and 10.1% of respondents (7.7% of men and 12.9% women), reported that in the last 12 months they suffered from depression or anxiety (Kanjuo Mrčela and Ignjatović 2012).

A tenth of respondents, slightly more women than men, experienced exposure to psychological violence (defined as a hostile act systematically carried out by one or more persons and directed towards another person, to devalue, humiliate or isolate that person, and to ultimately leave the job).

2.2 At risk of poverty

Changes in the economic and labour market conditions and policy responses to those changes had also some effect on the increase of at-risk-of poverty rates in Slovenian society. Growth of at risk of poverty rates, especially after 2008 was evident in all segments. Thus, the risk of poverty rate of the working population (in employment) – which has the lowest risk among all groups of the population – increased from 4.6% in 2005 to 6.4% in 2014. Highest rates of risk of poverty and the highest increase in the 2005-2014 period in the population was detected for unemployed persons (from 24.9% in 2005 to 46.9% in 2012 and 45.4% in 2014), indicating a very large differences in society and a strong dependence of individual's living standards on its activity status in the labour market (see chart 2.3).

Chart 2.3: At-risk-of-poverty rates for different activity statuses, Slovenia 2005-2014

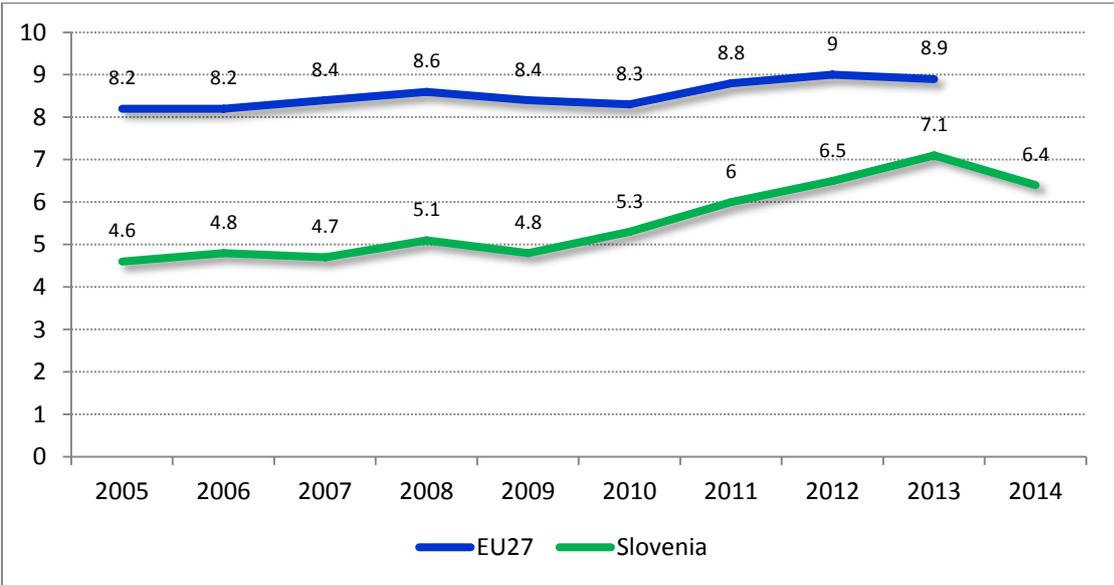


Source: SORS 2015, SI-Stat Data Portal

Slovenian social security system has in its form and essence the characteristics of Bismarckian or Conservative-Corporatist welfare regime. On the other hand, according to its effectiveness it can be compared with the Social-democratic welfare state model¹. This system, despite all the changes in the employment system and labour market, and despite the declining share of GDP allocated for social security² in the 2001-2008 period, was and still is relatively successful in amortizing the negative effects and creates a relatively low overall at risk of poverty rate and small proportion of 'working poor'. This was achieved mostly through the high redistributive role of Slovenian tax system and social security system itself.

Since the start of the recent economic crisis, Slovenian social security system has managed to maintain relatively and absolutely low at-risk-of-poverty rates which are strongly related to the persons activity status in the labour market, his/her tenure of employment and his/her previous contributions for social security. But the economic crisis caused an increase of in-work at-risk-of-poverty rates in Slovenia at higher pace than on the EU27 average (chart 2.4).

Chart 2.4: In-work at risk of poverty rates



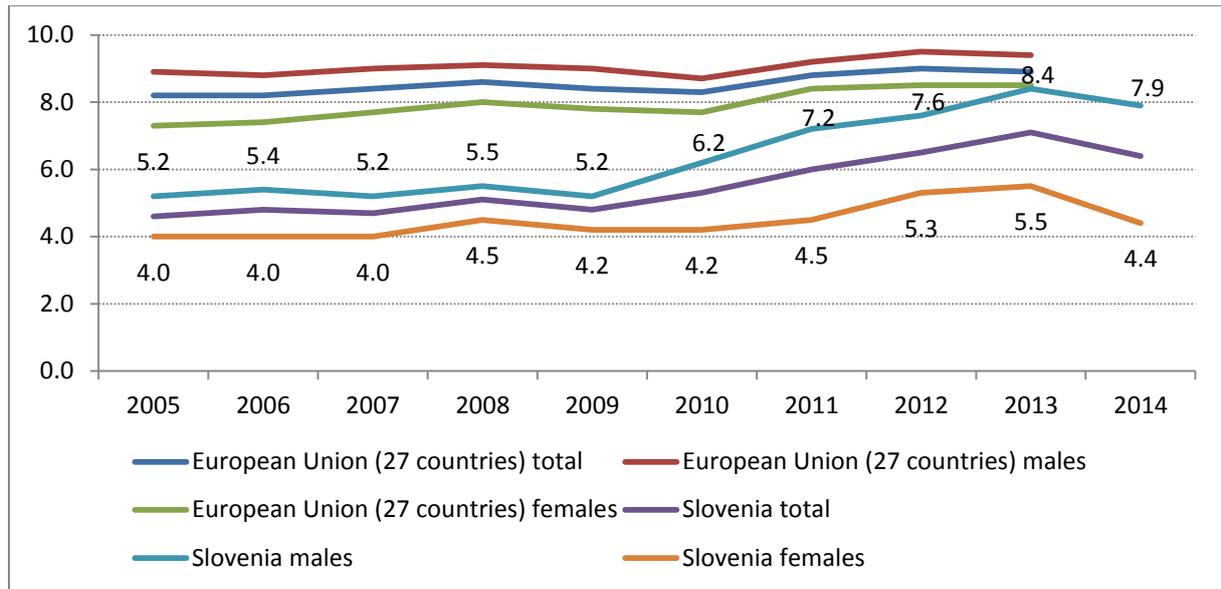
Source: Eurostat Data base 2015

The economic crisis also increased the gap between employed men and women in Slovenia, with employed men experiencing higher in-work at-risk-of poverty rates than women (chart 2.5).

¹ According to the Eurostat's data on at risk of poverty rates, Slovenia, with 14.5% rate in 2014, has, after social transfers, relatively comparable rates with Sweden (15.1%), Norway (13.1%), Denmark (11.9%), Finland (12.8%) as well as with Central European countries – Slovakia (12.6%), Hungary (14.6%) and Austria (14.1%). (Eurostat 2015)

² According to Eurostat (2015), the Slovenian GDP share used for social security was constantly decreasing in the period 2001-2008. Thus, in 2001 this share was 24.5%, in 2003 it decreased to 23.7%, in 2005 it was 23.0% and in 2008 the share was 21.0%. After that, the GDP share increased again to 25% in 2013.

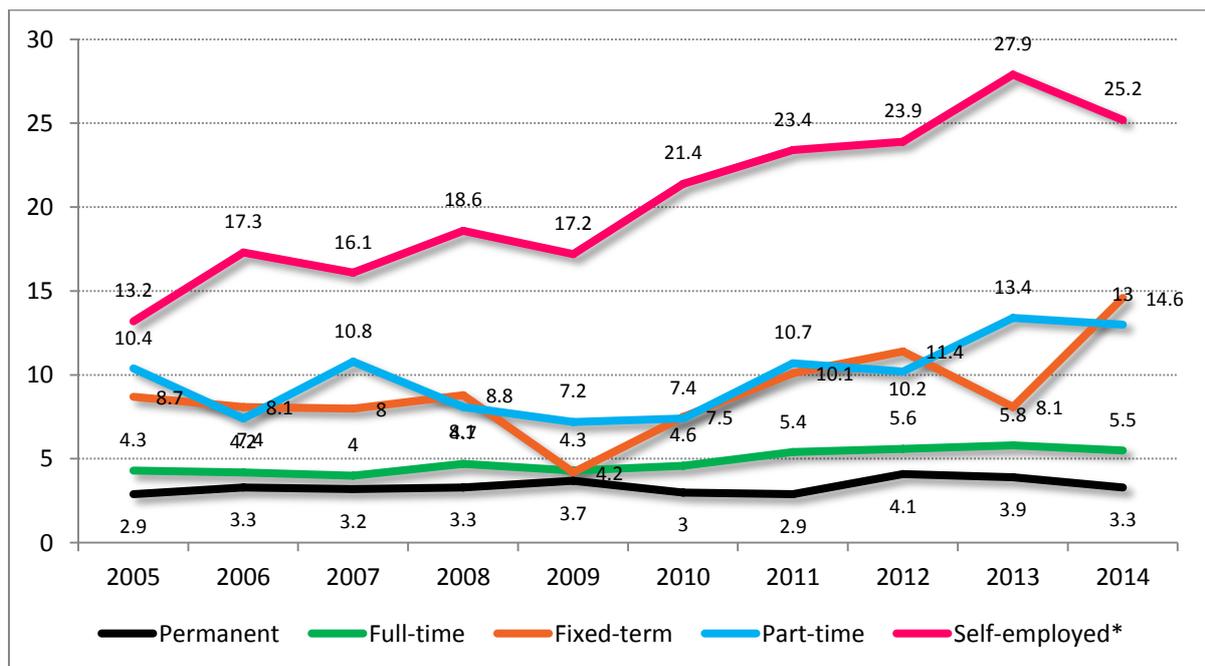
Chart 2.5: In-work at-risk of poverty rates by gender



Source: Eurostat (SILC) 2015

Of course, in-work poverty rates are highly dependent on the type of employment contract and form of employment/work performed in the labour market. In the Slovenian labour market those employed in permanent (3.3% in 2014) and full-time (5.5% in 2014) employment have much lower in-work at-risk-of-poverty rates than those employed in fixed-term (14.6% in 2014), part-time (13% in 2014) and especially than those who are self-employed persons (25.2% in 2014) (see chart 2.6).

Chart 2.6: In-work at risk of poverty rates for different statuses and forms of employment, Slovenia 2005-2014

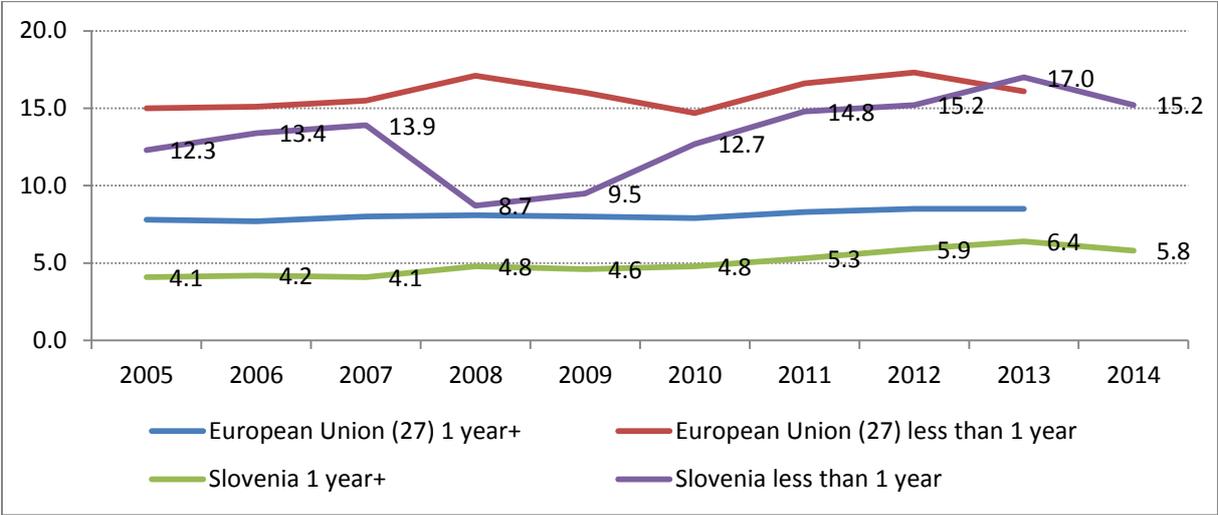


Source: Eurostat (SILC) 2015, *SORS

As we can see, an important factor in poverty is the type of employment contract. Data for Slovenia show that in Slovenia in-work poverty for employees with permanent contract was relatively stable in the period 2005-2014 and in 2014 at only 3.3 %, while the share of the poor among employees on fixed-term contract was much higher (at 14.6%). However, the poverty rate among employees - both for fixed and for an indefinite period - in Slovenia is lower than the European average and lower than the proportion of working poor in the EU.

Not surprisingly, the in-work at-risk-of poverty rates are higher for those employed persons who have less than one year long employment (in recent years the at-risk of poverty rate in Slovenia even surpassed EU27 average) than persons employed for whole year or more.

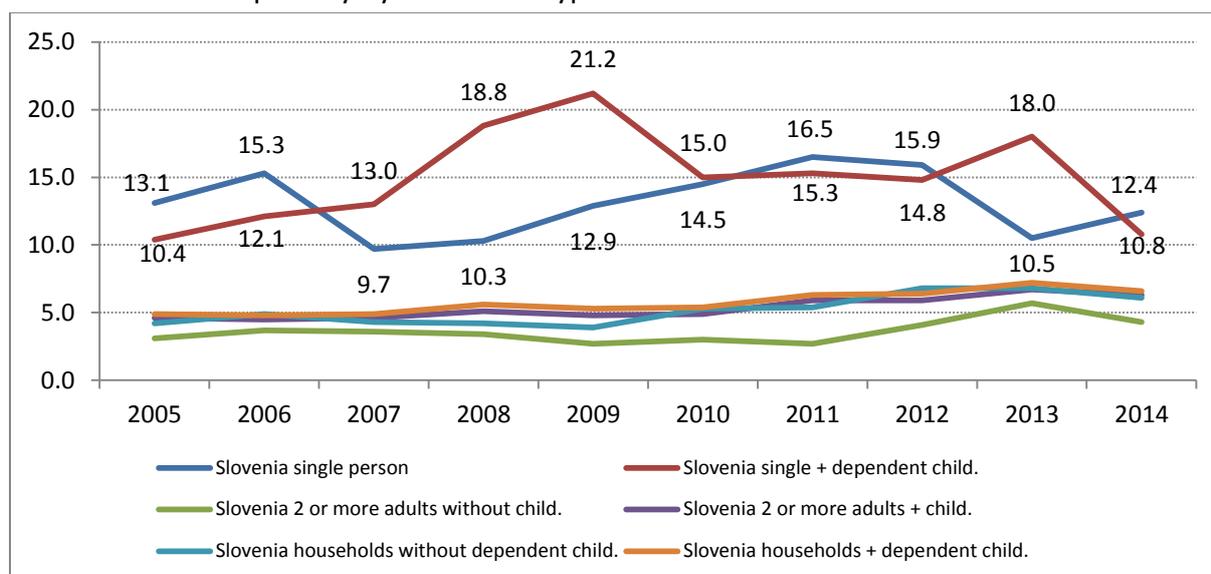
Chart 2.7: In-work poverty by duration of work



Source: Eurostat 2015

Analysing the in-work at-risk-of poverty rates by household type in Slovenia (chart 2.8) we can detect especially high risk of poverty among single persons (without or with dependent child).

Chart 2.8: In-work poverty by household type



Source: Eurostat 2015

Eurostat's data for Slovenia show that the proportions of working poor single persons (with or without dependent children) in respect to all other household types in Slovenia are higher, confirming thus previous analyses (for example Leskošek et al. 2013) which identified especially single parent families as those with higher risk of entering into poverty.

Generally, the higher at-risk of poverty rates are highly correlated with the low wages and sectors (table 2.3) where such low wages are more frequent. In Slovenia, the sectors with wages well below the average are: Manufacturing (especially Manufacture of wearing apparel and Manufacture of leather and related products), Administrative and support service activities, Accommodation and food service activities and Construction.

Table 2.3: Sectors with the lowest average gross and net wages, July 2015

Sector	Average gross wage	Average net wage
Total	1541.83	1000.06
Manufacture of wearing apparel	990.85	691.81
Manufacture of leather and related products	1003.38	699.34
ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES	1017.65	703.91
ACCOMMODATION AND FOOD SERVICE ACTIVITIES	1073.98	734.45
Manufacture of coke and refined petroleum products	1155.26	841.11
Manufacture of furniture	1192.16	814.35
CONSTRUCTION	1202.05	810.79

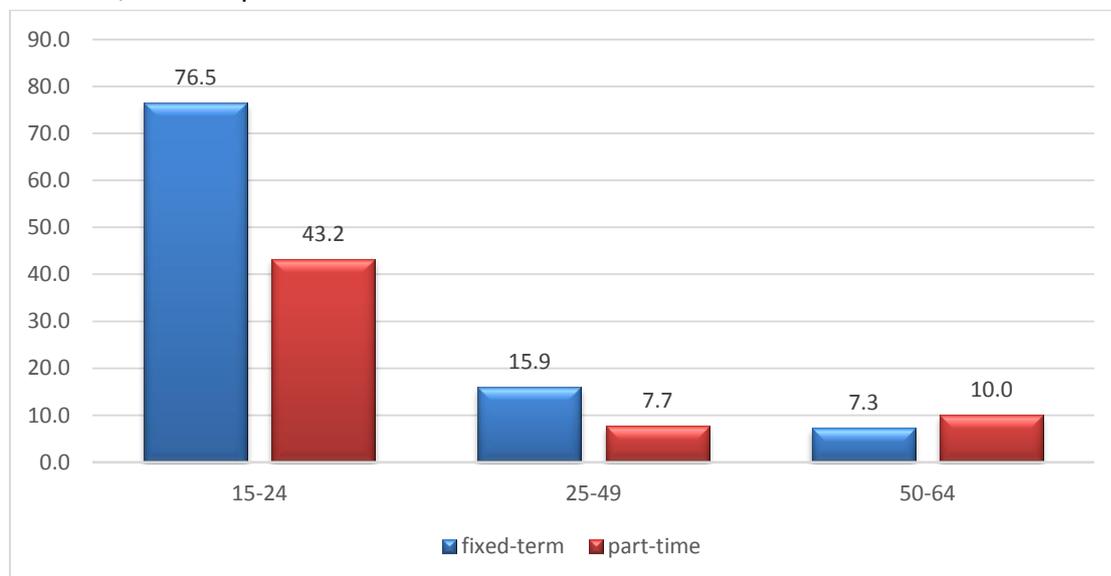
Source: SORS 2015a

Furthermore, low wages in presented sectors are the consequence of the effect of many additional factors – among them is the presence of a combination of more flexible forms of employment in one employment contract. Thus, those employees with a fixed-term contract mostly working part-time (4 hours or 6 hours per day), have **higher risk of having low wages than those having only one type of flexible employment in the employment contract.**

2.3 Youth

The abovementioned trends which influence the flexibilisation process in Slovenian labour market are bringing also problems regarding further segmentation of the labour market, based mainly on the age (see chart 2.9) of those employed in flexible forms of employment. The share of fixed term employment is especially high among the youth (aged between 15 and 24) which causes segmentation of the labour market and certain problems for the youth: low financial independence causing inability to rent or buy their own accommodation and furthermore prolonging the time of marriage and getting first child. Youth is especially vulnerable since they do not have much work experience, as well as any personal experience with the employment of indefinite duration for full-time work. They are therefore more flexible with regard to the adoption of fixed-term employment (or any other form of flexible employment), mainly because they do not have many alternatives.

Chart 2.9: Shares of persons employed in fixed-term and part-time employment* by age, Slovenia, LFS 2nd quarter 2015



Source: Eurostat

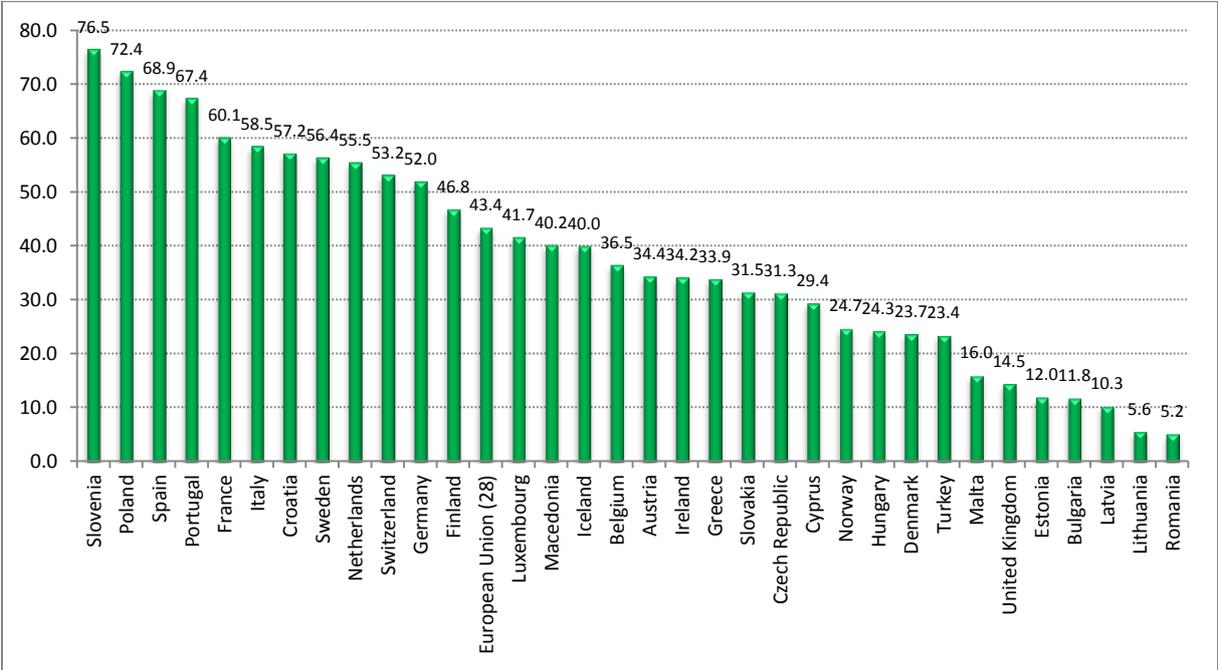
*Fixed-term employees as a percentage of the total number of employees, Part-time employment as a percentage of the total employment

This lack of alternatives in choosing the type of employment is producing 'hoarding' of young people in certain flexible forms of employment, in particular in fixed-term and part-time

employment. In both forms, the proportion of such young recruits among all economically active young people is among the highest in the EU. This is especially true in the case of fixed-term employment (Chart 2.10), where the Slovenian youth for several years has the highest share, following closely by the Polish youth.

How severe is the problem of fixed-term contracting among young Slovenian population? The share of young Slovenian employees with fixed-term contracts among all employees in the same age group increased in the period 2009 - 2015 (from 66.6% in 2009 to 76.5% in the second³ quarter of 2015) and is the highest among all EU countries (EU28 average in 2015 is 43.4%) (Eurostat 2015).

Chart 2.10: Shares of youth with fixed-term contracts among all youth in employment, (15-24 years), LFS, 2015, 2nd quarter

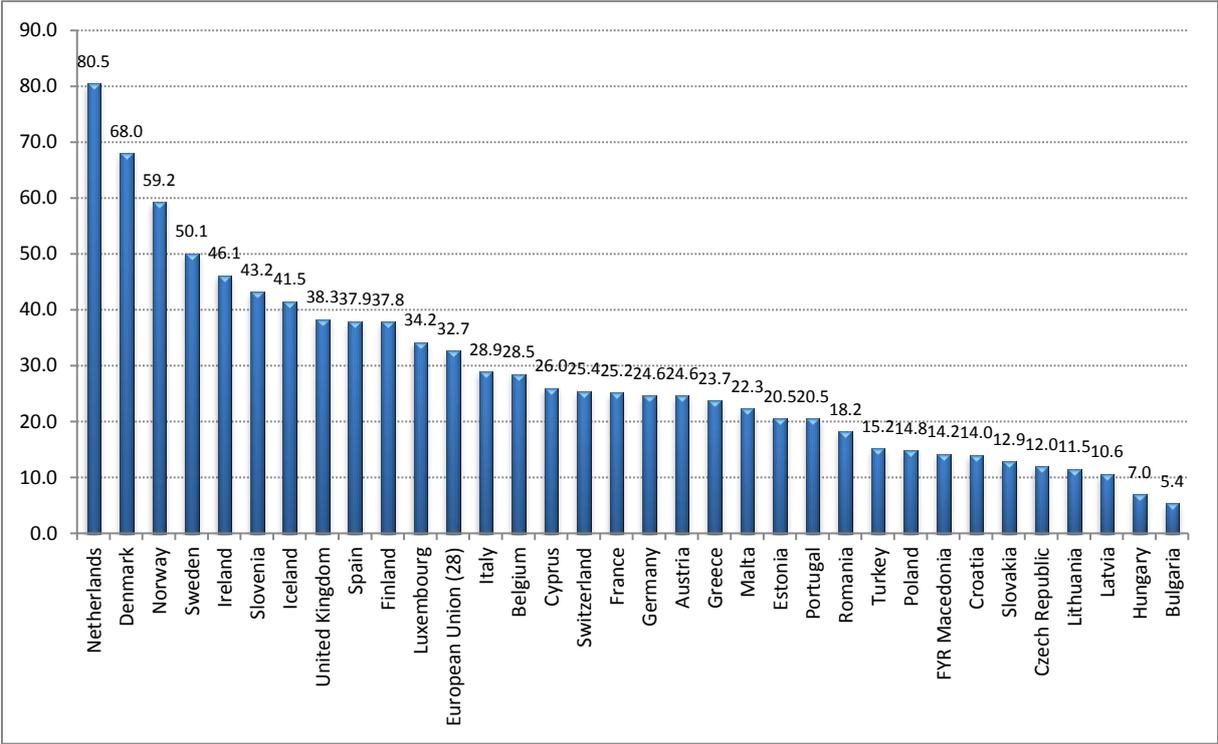


Source: Eurostat 2015

Additionally, the share (43.2% in second quarter of 2015 – chart 2.11) of Slovenian youth with part-time contracts among all youth in employment is also among the highest in EU 28 – thus further worsening the status of youth in Slovenian society and increasing the segmentation of Slovenian labour market.

³ The share increased further in the third quarter of 2015 to 81%.

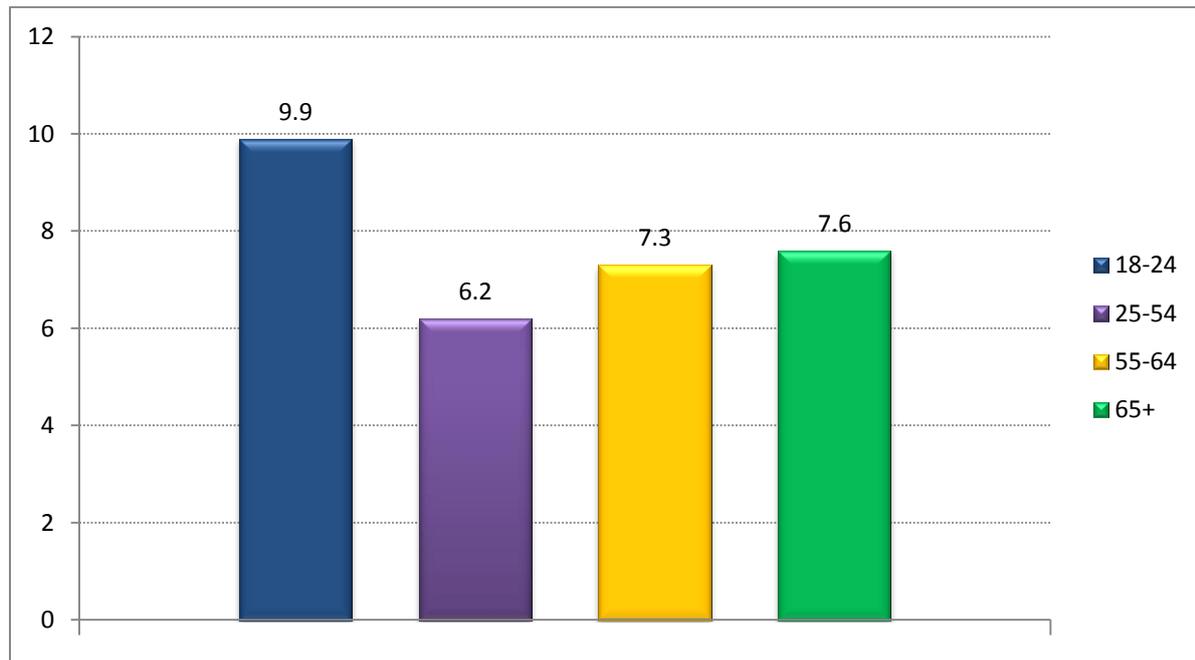
Chart 2.11: Shares of youth with part-time contracts among all youth in employment, (15-24 years), LFS, 2015, 2nd quarter



Source: Eurostat 2015

Following the above mentioned findings that have those with the combination of different flexible forms of employment in one employment contract have higher risk of having low wages (and higher at-risk-of poverty rates) than those having only one type of flexible employment in the employment contract, it is not surprising that at-risk-of poverty rates of youth are higher than for other age groups (see chart 2.12).

Chart 2.12: At-risk-of poverty rates among persons in employment by age groups, Slovenia, 2014



Source: Eurostat 2015

Thus, in Slovenian labour market younger generations are those who are dealing with flexibilisation and all negative consequences related to that – not being able to get permanent jobs until their early thirties.

2.4 Systemic changes

Changes in the past decades and especially after the start of the last global economic crisis are promoting the transfer of risk from the employers and the system or the state to the individual. Risks and burdens are transmitted from the collective level to the individual level, which has a wide variety of consequences. This change has, according to Goodin (in Leskošek et al. 2013), brought by perverse social policy reforms that can be found in the current period in Slovenian social security legislation. Perversion is based in the fact that it transfers the burden of providing social security to vulnerable persons themselves. Such burden is making them even weaker and thus they are not capable to handle it.

Such transfers of responsibility for the own social security can be found also in the relation between employers and employees. One of the typical examples (described in the section Cost-driven subcontracted work) is the pressure on employees in some sectors to migrate from employment to self-employed status. One of the risks that arise as a result of these processes is certainly the phenomenon of the working poor or precariat. According to the Leskošek et al. (2013) other reasons for increase of the working poor population in the Slovenian society are: extreme capitalist logic of reducing costs and behaviour of employers

and the actual economic and financial situation of each employer (whether or not he/she can actually pay wages to employees).

Current changes of the labour market related legislation from 2010 onwards were introduced in order to further improve the responsiveness and competitiveness of the Slovenian labour market in the worsened global economic environment.

The new Employment Relationship Act (hereinafter referred to as the ERA-1) adopted in March 2013 and in effect from 12.4.2013 was a part of a relatively comprehensive labour market reform, which aimed, according to the authors, to establish the appropriate balance between adequate protection of workers and the ability to effectively adapt to market conditions. The starting point for preparing new Act was the need for relative equalizing the statuses of employees employed in regular employment for an indefinite period of time in relation to employed with fixed-term contracts or other forms of flexible employment in order to reduce segmentation in the labour market and high labour costs. In order to achieve such objectives, the new Act tackled and changed several segments of the labour market relations. Most important were:

1. Simplification of procedures and reducing administrative barriers

In order to simplify the procedures and reduce administrative barriers, the new ERA-1 introduced several simplifications of the procedures.

Thus, it shortened the period for worker's application to the open vacancy from five to three days. In the case of termination of employment due to the business reasons the ERA-1 omitted the obligation of prior notification of employees of the intended termination of the employment contract.

Furthermore, in cases of termination of employment due to incompetence and a business reason it omitted current legal obligation for an employer to offer an equivalent job to the employee, but simultaneously, it encouraged employers to do so by determining consequences for the worker, if he/she accepts an offer for a new employment contract to take another work, or he/she does not accept the offer.

The new ERA-1 also enabled the integration of workers in the relevant active labour market measures during the notice period. The employer must allow to such employee at least one working day per week free for responding to calls from Employment Service of Slovenia for informing, training and attending any job interviews. This solution would, with the employers' duty to inform Employment Service of Slovenia at the start of the notice period about the termination of employment (if it is not offered other suitable employment), and the duty of the worker's registration in the register of unemployed persons, allow immediate

inclusion of workers in the period of notice in activities for searching for new employment, acquiring new skills and competencies which would have better impact on the motivation of workers for early re-integration into the labour market.

Furthermore, new ERA-1 increased (gradually) the age of workers (from 55 years in 2013 to 58 years in 2017), who have special protection against dismissal. Thus, special protection against dismissal is intended for workers who meet the age requirement of 58 years or employees who otherwise do not meet the age requirement, but they would qualify for the retirement in five years or less.

2. Changes for increasing the flexibility of the labour market

The new ERA-1 provided new reason for signing the fixed-term contract – fixed-term contract for the duration of the handover of work for less than one month. At the same time the new ERA-1 provided some opportunities for increasing the internal flexibility in Slovenian companies. Thus, the ERA-1 determined in detail the cases when workers can be ordered to carry out other work during the course of employment, if this option is not otherwise regulated by a special law or by collective agreement. The Act provided examples (in order to maintain employment or to ensure the smooth running of the working process) and conditions (the adequacy of other work, the time limit of three months, favourable payment for work) when such work can be ordered in writing to the employee. In addition, with that change ERA-1 offered to small employers greater internal flexibility since they can order to fixed-term workers other adequate jobs.

The new act also introduced the institution of "temporary layoff" in which, as opposed to the previous system regulation, according to which the worker whose employer cannot guarantee work, is entitled to 100 percent of salary compensation, compensation benefits are reduced to 80 percent of the base. The purpose of "temporary layoff" status is to preserve the employment of worker that has no guaranteed work in the current period. An employer may put worker on temporary layoff for no longer than six months in one calendar year.

3. Incentives for cost savings for an employment for indefinite period

Thus, the new ERA-1 reduced the notice period in the case of the termination of employment. The longest period of notice of termination of employment by the employer for business reasons or for reasons of incapacity is shortened from 120 to 60 days. A longer notice period (80 days) applies only when the employee completed 25 years of service with the same employer and if the collective agreement at the sectoral level does not specify different notice period (but not less than 60 days).

Furthermore, the new ERA-1 reduced the amount of severance pay in the event of termination of employment due to business reasons or due to incompetence. In the event of termination of employment due to business reasons or due to incompetence the employee is entitled to severance pay in the amount of 1/5 of the basis for the employment of one to ten years, 1/4 of the basis for the employment of ten to twenty years, and 1/3 of the basis for more than twenty years of service with the same employer.

4. Disincentives for using the fixed-term contracts

In order to limit the usage of fixed-term contracts in Slovenian labour market, the new ERA-1 further restricted the implementation of successive contracts of fixed-term employment for the same work, where continuous duration would be longer than two years (except in some explicitly determined cases).

Furthermore, according to the MOLFSA representatives, in order to reduce dualism or segmentation in the labour market, the new ERA-1 proposed as a new solution establishing a right to severance pay in the event of termination of fixed-term employment. On the other hand, this obligation is absent in the case of transition from fixed-term contract to a permanent contract – this should be an incentive for employers to offer employment contract for an indefinite period instead of fixed-term contract.

In the case of termination of the fixed-term employment contract, which has been signed for one year or for a shorter period, the ERA-1 provided for the right to severance pay equal to one fifth of the average worker's wage for full-time employment in the last three months of work or during the period prior to the termination of the employment contract for a fixed period. In the case of termination of the employment contract, which lasted more than a year, the employee is entitled to severance pay for the first year of employment (1/5 average monthly salary) and the proportionate share of severance pay depending on length of service (1/12 from 1/5 for each month of service).

As an additional incentive for reducing the share of fixed-term employment and as contribution to reducing the segmentation of the labour market the new ERA-1 offered certain exemptions from paying the employer's contribution for unemployment benefits in the first two years of employment for an indefinite period. On the other hand, the amount of this contribution in the case of a signed contract of employment for a fixed term is five times higher than the normal contribution.

The new ERA-1 also introduced the quota for agency work with the employer. The act provides that the number of posted workers at the employer should not exceed 25 per cent of the workforce (the basis representing all employees - both permanent employees and fixed term). According to some experts, this level is relatively high meaning that relatively

low number of employers actually used, until now, higher percentage of agency workers in their companies.

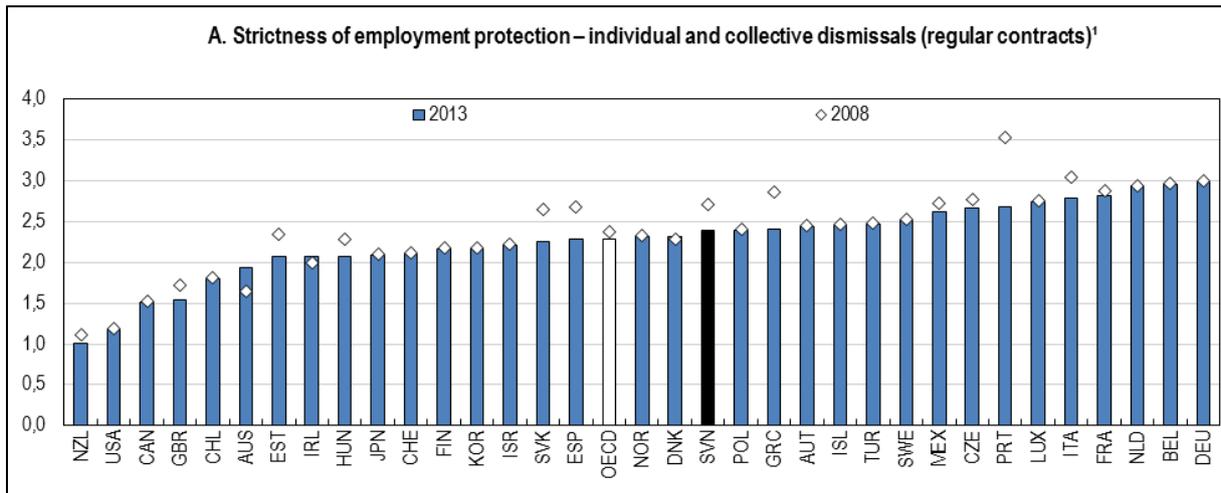
The new ERA-1 also tried to provide increased legal security for employees, especially with the intention to prevent abuses of the law which have happened in the past. In terms of prevention of abuses in practice, especially regarding the constitution of "shell companies," the amendments to the ERA-1 ensure more effective protection of workers' rights in cases of transfer of company or part of a company to the new employer. According to the ERA-1, both old and new employer are liable for claims. In addition, the law provides that all rights attached to workers' seniority take into account years of service with both employers. Here it should be mentioned that one of the most important measures in preventing abuses should be increasing the number of labour inspectors and their empowerment in certain areas.

The introduction of the new Employment Relationship Act is expected to reduce the segmentation (and the first reports for 2013 and 2014 showed some movements in this direction (MOLFSAEO 2014, MOLFSAEO 2015)), especially by making fixed-term employment contracts less attractive to Slovenian employers and simultaneously increase the flexibility of the Slovenian labour market, especially by reducing the administrative barriers for quicker layoffs. But, as some experts pointed out, the ERA-1 is only another document which could make a difference if the economic and social environments are relatively normal. In the case of Slovenian current economic, social and labour market situation changes introduced by the new ERA-1 cannot have desired effect since there are no new strategies of long-term development and there are no possibilities for new investments which would increase the number of job vacancies and start new economic cycle. Furthermore, political environment does not offer any support for the positive development of Slovenian economy and labour market as well.

Moreover, the implementation of one of the most important objectives of the amendments to the ERA in 2013 – reducing the segmentation of Slovenian labour market – was in practice perceived by some as reducing some rights of those employed with permanent employment contract and increasing somewhat the rights of those employed in flexible employment/working contracts. This in practice means reducing the overall standards and rights of the Slovenian labour force.

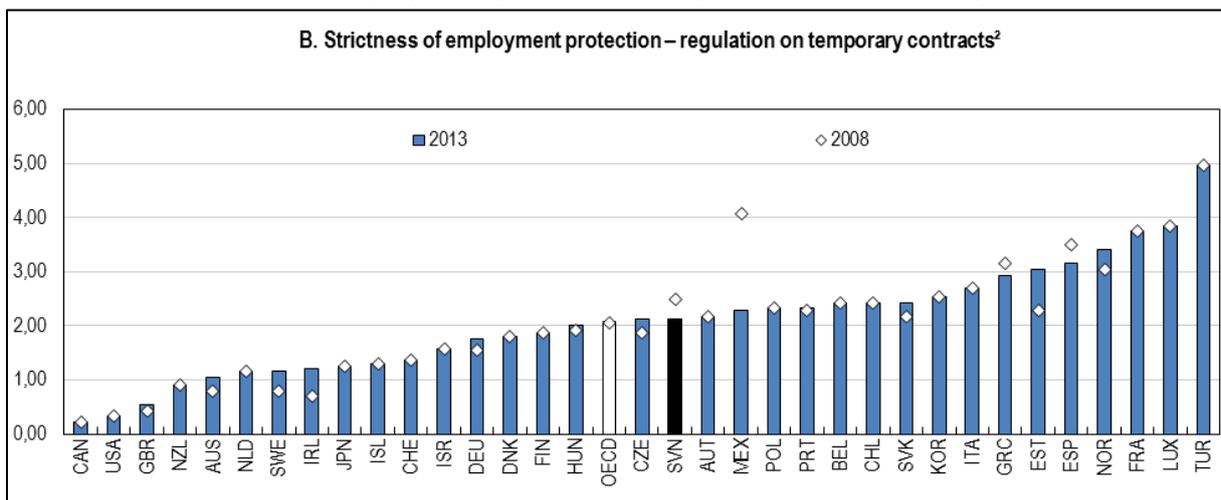
Such changes were reflected in, among others, lower Employment Protection Legislation Index. According to the OECD, amendments introduced moved Slovenian labour market legislation closer to the OECD average making thus Slovenian labour market more flexible. (see chart 2.14 and chart 12.15)

Chart 2.14: Strictness of employment protection – individual and collective dismissals



Source: OECD 2015, 41

Chart 2.15: Strictness of employment protection – regulation on temporary contracts



Source: OECD 2015, 41

Thus, while Slovenian labour market has been perceived in the past as rigid, not offering many opportunities for flexible employment, this picture changed in the recent years.

According to the Ministry of Labour, Family, Social Affairs and Equal Opportunities, 21 different contracts (26, counting variations of certain contracts) related to the labour market are currently available in Slovenia to the employers and working age population. The majority of those contracts are so called ‘employment contracts’ and they all fall under the rule of Employment Relationship Act.

Beside the employment contracts the Slovenian labour market recognizes also ‘work contracts’ (pogodba o delu – podjemna pogodba, avtorska pogodba) which are contracts of civil law and are defined in the Code of Obligations. In the case of work contract the contractor commits itself to carry out an activity such as making or repairing things, physical

or intellectual work, etc., while the client commits itself to pay for this contracted activity. The payment should be determined by the contract, if not already covered by the compulsory tariff or some other obligatory acts. One of the important differences between employment and work contracts is that the work contracts offer lower labour costs (payments for social contributions) for client than the employment contract.

Table 2.4: The relationship security, workers' and social rights by different types of employment contract

	Relationship security (duration)	Workers' rights	Social rights
Permanent contract	yes	full	full
Part-time contract	Permanent yes	In principle %	Pension %
	Fixed-term no	Exceptionally full	Health full
Fixed-term contract	no	full	full
Student work	no	minimum	Pension %
			Health limited
Self-employed	no	no	Pension full (paid by himself)
			Health (same as employees, but after first 31 days)

Source: Rajgelj 2015

In the following chapters we will analyse different employment contracts in Slovenian labour market.

3 Standard employment relationship

The permanent employment contract is the typical – standard form of employment relationship in Slovenia. The Employment Relationship Act defines it as a starting point for regulating all other employment contracts. In the case of the permanent employment contract, the contract is signed for an indefinite period, unless the law otherwise specifies.

Compared to other types of employment contracts (eg. employment contract for a fixed term, a part-time employment contract, or agency contract), the worker with the permanent employment contract is guaranteed the full range of workers' rights, as well as social rights. Thus, at least on the paper, such contract provides a significant level of security in terms of the duration of the employment relationship and in terms of worker's rights and social security. Due to the relatively large corpus of rights which are to be ensured by the employer directly (through the provision of workers' rights) or indirectly (through payment of social security contributions and taxes) such employment contract is rather expensive (in comparison with other forms of employment) for the employer. On the other hand it should provide relatively loyal and motivated employees.

The field of labour market in Slovenia is regulated by several legal documents. Employment Relationship Act (ERA-1, lastly amended in 2013) is the systemic Act that regulates the employment relationships in the private and public sector (where some aspects are regulated by the Civil Servants Act). The minimum wage for workers working full-time is set by the Minimum Wage Act. Collective agreements, on different levels (national, sectoral, professional and organizational) are complementing the legislation providing mostly more favourable coverage of workers' rights than in the Acts.

Workers' social rights are not regulated by a single systemic act - each subsystem of social security has its own act. Thus, the rights arising from unemployment is regulated by the Labour Market Regulation Act adopted in 2010. Injuries and diseases are regulated by the Health Care and Health Insurance Act, while pension and disability insurance are regulated by the Pension and Disability Insurance Act (ZPIZ-2). Insurance for parenthood and family receipts are regulated by Parental Protection and Family Benefit Act and the social security benefits are regulated by Financial Social Assistance Act.

The fiscal aspects are regulated in particular by the Social Security Contributions Act which regulates the levying, payment and level of contributions for compulsory pension and invalidity insurance, mandatory health insurance, parental protection and employment. In addition, the Labour Market Regulation Act, as a measure to promote permanent employment, exempts contributions for unemployment insurance for employers which sign the permanent employment contract with an employee and an increase of those same contributions for those who sign the fixed-term contract.

In comparison to the other forms of employment, permanent contract offers the highest level of social security and certainty in terms of duration of contract. The new amendments to the Employment Relationship Act (ERA-1) brought some improvements for those with permanent employment – under specific conditions an employee may extraordinarily terminate the employment contract if the employer does not pay regularly and timely salary, its compensation or social security contributions, does not ensure the safety and health at workplace if the worker has previously requested the elimination of threats to life or health, or in the case when the employer does not guarantee equal treatment in accordance with the rules on non-discrimination, protection against sexual harassment in the workplace.

One of the important rights deriving from permanent employment (and lately also from fixed-term employment) is severance payment in the case of regular termination of employment for business reasons and reasons of incapacity and in the case of extraordinary termination by the employee. The amount of severance pay is dependent on length of service with the employer and the worker's average monthly salary in the last three months before the termination.

The extent of labour rights

The permanent employment contract is providing a greater number of labour rights:

a) Obligation to Provide Work - the employer must provide work to the worker as agreed in the employment contract, the necessary resources and work material and ensure him free access to business premises.

b) Remuneration for the work done - remuneration to the employees is not entirely within the discretion of the parties, but is, to protect workers as the weaker party, bound by the provisions of the law. The components of the remuneration are consisted of salary and other benefits from the work. The salary is consisted of basic salary, which must be paid in cash, part of the salary for work performance, part of the salary for business performance if this is agreed in a collective agreement or employment contract, and supplements that belong to the worker due to the seniority and unfavourable working hours (at night, overtime, Sunday and holiday work) as well as any supplements according to the collective agreements. In addition by law the employee is entitled to other revenue from work: annual leave allowance, reimbursement of expenses in relation to work (reimbursement of meal expenses, for commuting to and from work and reimbursement of business expenses), retirement benefits and wage compensation of justified absences (eg. sick leave up to 30 days of absence, annual leave, absence due to personal circumstances, education, holidays and public holidays).

c) The right to paid and unpaid absences - the right to paid annual leave (at least four weeks), the right to sick leave up to 30 days of absence, the right of absence due to personal circumstances and holidays (the worker is entitled to paid leave from work for at least one

day in each case, a maximum of seven working days in a calendar year because of personal circumstances)

d) Regulated and limited working hours - full-time (which may not be longer than 40 hours per week), overtime (only in cases specified by law), breaks (30 minutes during the shift counted in working hours) and rest periods and night work (regulated for the protection of health and rest of workers).

The extent of social rights

Again, the permanent employment contract offers the greater extent of social rights to the permanent employees. Social rights in addition to those provided by the state from the budget to all (or most) of the population on the basis of the national social security systems, are derived from social insurance, by contributions paid by workers and employers from gross wages. Those social rights are:

a) Unemployment insurance – the state provides to the unemployed persons a variety of measures and services to which they are entitled regardless of the unemployment insurance (eg. a lifelong career guidance, job placement services, public works, education and training). On the other hand, the access to the unemployment benefit is dependent on certain conditions (eg. that the person has lost his/her job without his/her will or guilt and that the person paid contributions for unemployment insurance for the certain period of employment). The unemployment insurance is compulsorily for all persons in employment in Slovenia.

b) Health care and health insurance - on the basis of compulsory health insurance, whereby workers and their family members are insured against occupational and non-occupational diseases and injuries, the workers have the right to salary compensation during temporary absence from work of more than 30 days in exceptional cases, they are entitled to reimbursement of travel expenses relating to the health services and the right to payment of health care services.

c) Pension and Disability Insurance – as in the case of health insurance, pension and disability insurance are compulsory and provide various types of pensions (old-age pension, disability, widow, family and partial pension), as well as certain other rights (eg. The rights from disability insurance as the right to vocational rehabilitation and the right to invalidity benefit, as well as additional benefits such as the allowance and attendance allowance or disability allowance).

d) Insurance for parental protection - on the basis of compulsory parental insurance the workers have the right to maternity, paternity and parental leave and allowances, the right to part-time work and payment of social security contributions, rights to payment of social security contributions in the case of four or more children.

Even though the permanent employment contract offers the best work and social security conditions, there are also numerous areas where problems/gaps exist that provide basis for increased precarization of the labour force.

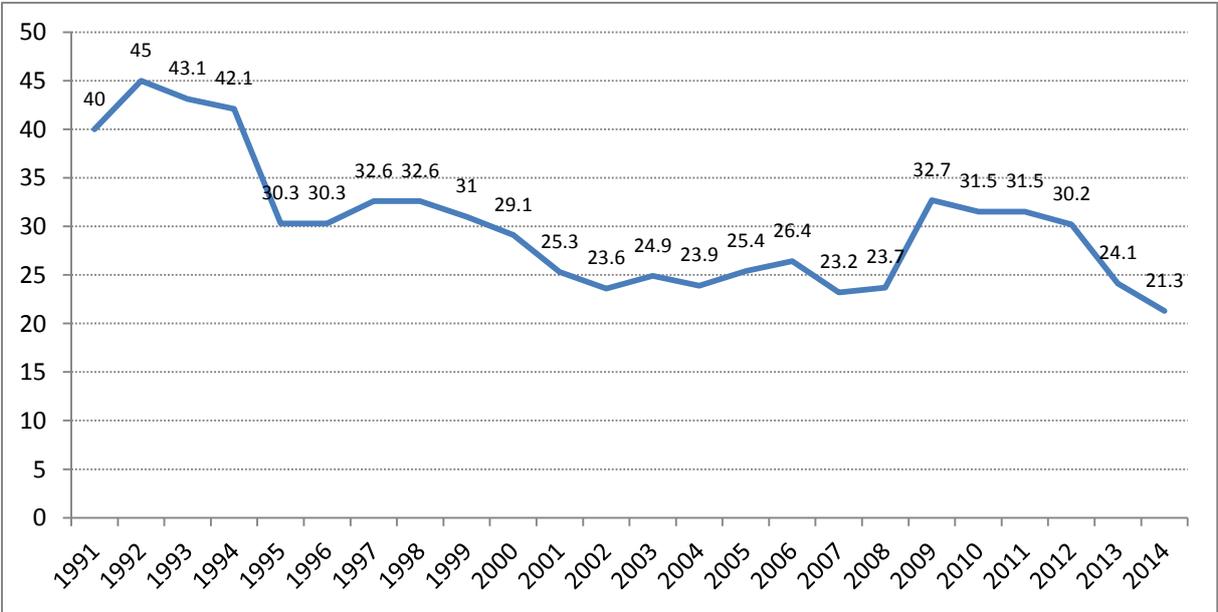
3.1 In-work regulatory gaps

Eligibility gaps

Among eligibility gaps one of the most important ones is the eligibility to the Unemployment Benefit on the basis of length of job and contributions (based on the size of wage/salary).

During the last 25 years the unemployment insurance system has become less insurance and more social assistance based. The duration of benefits has shortened and the maximum payment decreased. The insurance scheme has become more redistributive aiming at the provision of basic security rather than the maintenance of living conditions of those losing jobs at the level that they had as employees. Following the tightening of the conditions for receiving unemployment benefit the share of unemployment benefit recipients started to fall (see Chart 3.1) providing thus lesser proportion of registered unemployed with temporary social security.

Chart 3.1: The share of unemployment benefit recipients among registered unemployed in the period 1991-2014



Source: ZRSZ 2015

The eligibility for unemployment benefit was regulated until 2010 by the Employment and Insurance against Unemployment Act (EIAUA). Since Slovenia gained independence in the beginning of 1990'ies, eligibility criteria have been tightened twice: in 1998, by reducing the

period of receiving unemployment benefits, and in 2006, by imposition of tighter conditions regarding the obligation to accept work. The amended Act (2006) stipulated that the right to unemployment benefit may be claimed by an insured person who was employed with one of more employers for at least 12 months during the last 18 months prior to the termination of the employment contract. This condition made access to unemployment benefits harder for unemployed persons who were on fixed-term contracts with several and/or long job interruptions and was particularly tough on young people, who often hold fixed-term jobs. The basis for the assessment of unemployment benefit was the average monthly wage earned by the insured person in the 12 months prior to unemployment. The unemployment benefit totalled 70% of the assessment basis for the first three months and 60% for subsequent months. The duration of the right depended (and still does) on how long the person was insured (on the length of time worked) and ranged from 3 months (for insurance of 1 to 5 years) to 24 months (for insured persons older than 55 or with more than 25 years of insurance).

The same amendments of the EIAUA (2006), also introduced new definition of suitable job/employment which should make unemployed persons more flexible in accepting offered jobs. According to this new definition, suitable job/employment was employment which required skills at the most two levels (before only one level) lower than the educational attainment of the unemployed person was. Thus, suitable employment with required skills at one level lower could be offered to the persons that were unemployed up to three months, and suitable employment with required skills at two levels lower could be offered to the persons that were unemployed for six months. The amended act also defined sanctions for not accepting such employment – up to the expelling the person from the unemployment register.

Simultaneously, with the same amendments, the right to financial unemployment assistance was abolished – or more precisely, it was combined with financial social assistance (for people with no income or with earnings below the minimum specified income). Thus, after ceasing to receive unemployment benefit, unemployed person did not have right to unemployment assistance any more. Any kind of receiving financial assistance was regulated by Social Security Act. Following the same objectives and changes in EAIUA, the amendments to the Social Security Act also tightened the requirements for receiving social assistance – all social assistance recipients were required to accept any kind (regardless on the skill level required) of job offer (also temporary, casual or humanitarian work) after receiving the assistance for three months. In the case of not accepting such offer social assistance recipients also faced stricter sanctions – abolishment of assistance for six months.

The introduction of reform measures and such changes in the approach towards unemployed were challenged mostly by the trade unions representatives.

It should be noted here that the consequences of actual implementation of above mentioned rules were alleviated somewhat in practice by the employment counsellors at the ESS and the counsellors at centres for social work who expressed and utilized in the past a great amount of discretionary power in dealing with unemployed and social assistance recipients.

Nevertheless, such measures and the gradual transition to the principle of activation⁴ in the labour market and social security system, which has changed somewhat the logic of social policy and put forward a new value orientation⁵ for achieving higher levels of activity (return to the principle of full employment) contributed along with other factors (including the various measures of active employment policy and relatively high economic growth, which led to increased demand of labour) to the subsequent decline in the number of unemployed (as well as rates of LFS and registered unemployment) to the record low levels in the third quarter of 2008⁶.

Introduced changes, especially tightening the eligibility criteria and the 'activation principle' also contributed (as shown above in the Chart 2.1) to reducing the share of unemployment benefit recipients in the past two decades. In 1992 the share of unemployment benefit and unemployment assistance recipients among all registered unemployed was 45.0%, in 2000 it was 29.1% and in 2008 this share dropped to 22.7%.

This strong dependence on the activity status and the high at risk of poverty rate for unemployed people are somewhat alleviated by the strong involvement of household/family/relatives/neighbour assistance in different activities (food, clothes, care) and the relatively high share of undeclared work in local communities.

It should be noted that in Slovenia, the activation processes in the labour market were not accompanied by sufficient growth in job vacancies, which would allow the employment of particularly difficult to employ core of unemployed - to whom even active employment policy measures and the relatively high growth in employment could not help.

High at risk of poverty rates among the unemployed also showed that the system of unemployment insurance until 2010 was too strict and ineffective in insuring them against

⁴ "A fundamental feature of the principle of activation is highlighting the importance of working to ensure the individual's 'active' participation in society and social processes and to ensure their social inclusion. This is reflected in social policy objectives, which are mainly the inclusion of all capable to work in the labour market, which in turn changes the relationship between labour market and welfare state and its social security systems." (Kopač 2004, 153)

⁵ With measures such as: tightening the conditions for maintaining the status of registered persons through participation in ALMP measures and accepting job offers; activation of registered persons through financial incentives to work; raising the employability of individuals and the prevention of passiveness of social benefits' recipients.

⁶ In September 2008 there were 59,303 registered unemployed persons, while the LFS unemployment rate dropped in the third quarter of the same year to 4.1%.

poverty. Moreover, "in Slovenia, the strict eligibility criteria in UI have made social assistance the *predominant* form of income support for the unemployed" (OECD 2009, 21). However, social assistance has been since 2006 (with the amendments to the EIAUA) associated with the necessity of activation of the individual – as a necessity of acceptance of any offered occasional or temporary work. This had an impact on reducing the number of beneficiaries of social assistance in cash during the period from February 2006 (62,913) up to September 2008 (37,799), when the number of beneficiaries due to the economic crisis began to rise again (in February 2011 there were 55,201 recipients). (MDDSZ 2011)

The adoption of the new Labour Market Regulation Act (LMRA) in 2010 (which replaced EIAUA) was also the response to the critiques related to the too strict eligibility to the unemployment benefits. Thus, the new LMRA expanded the circle of insured persons and people who can voluntarily insure themselves against unemployment, and consequently, expanded entitlement to unemployment benefit for the time of unemployment. The condition for receiving unemployment benefit is now nine months' service in the last 24 months (previously 12 months in 18 months). It increased the right to unemployment benefit, especially for youth, often with little professional experience - increasing their social security. The act also increased the minimum (350€) and maximum (three times the minimum level) level of unemployment benefit, and increased the amount of unemployment benefit in the first three months of receipt (80% of the base instead of 70% so far) and reduced the period for determining the basis of compensation to 8 months (previously 12). Furthermore, in attempt to improve the financial situation of unemployed it offered (which was not accepted by the trade unions) the opportunity to unemployed people to work in mini jobs (to a limited extent – for up to 200€ per month), whilst preserving the right to unemployment benefit and introduced the institution of partial unemployment at the start of new employment. In the case of part-time employment previously unemployed person is retaining the right to a proportion of unemployment benefit. The Act also introduced new ALMP measures such as "job rotation" and "job sharing", and removes unnecessary administrative burdens on businesses and job seekers. Some of the above mentioned changes (especially the maximum level of UB) were reduced with the Fiscal Balance Act in 2012 which introduced austerity measures to the Slovenian society and labour market.

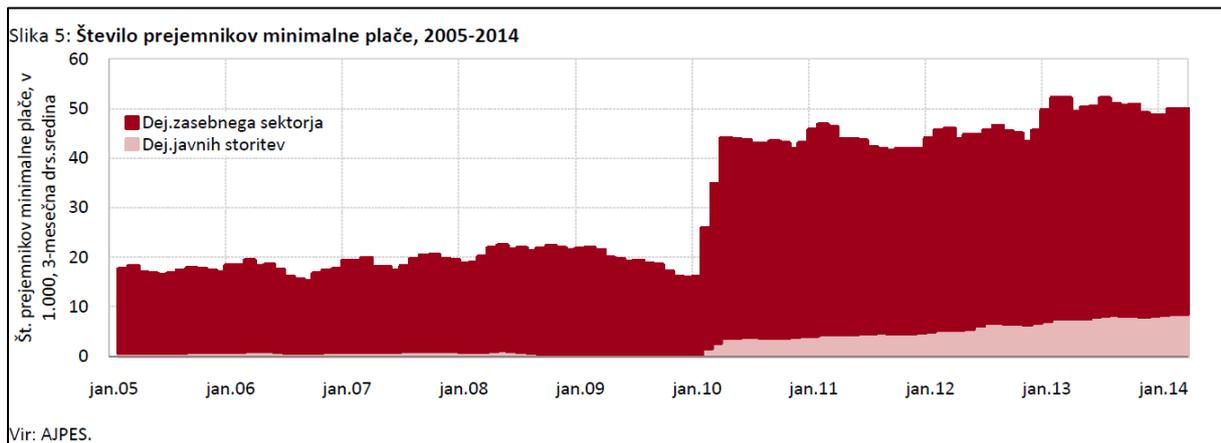
Regardless to the positive changes made with the introduction of LMRA, there are still groups of employees which are not eligible for the unemployment insurance: fixed-term employees with less than 9 months of employment in last 24 months, other forms of work and first-job seekers (younger than 30 years of age and registered less than 6 months at the Employment Service of Slovenia).

Minimum standards gaps

Another factor that is causing the increased incidence of working poor and precariat among the Slovenian labour force is the systemic one – the actual level of the minimum wage set in

by the Slovenian state. This level was set to quite low levels (597.43€ gross) until the amendments to the Minimum Wage Act in 2010. With those amendments Slovenian government increased notably the level of minimum wage (to 734.15€ gross) in Slovenia which led to considerable increase of the share of minimum wage recipients among the employed population (from 3% in 2009 to 8.6% in 2013 or almost 50000 employees in January 2014 – see chart 3.2).

Chart 3.2: The number of minimum wage recipients in the 2005-2014 period

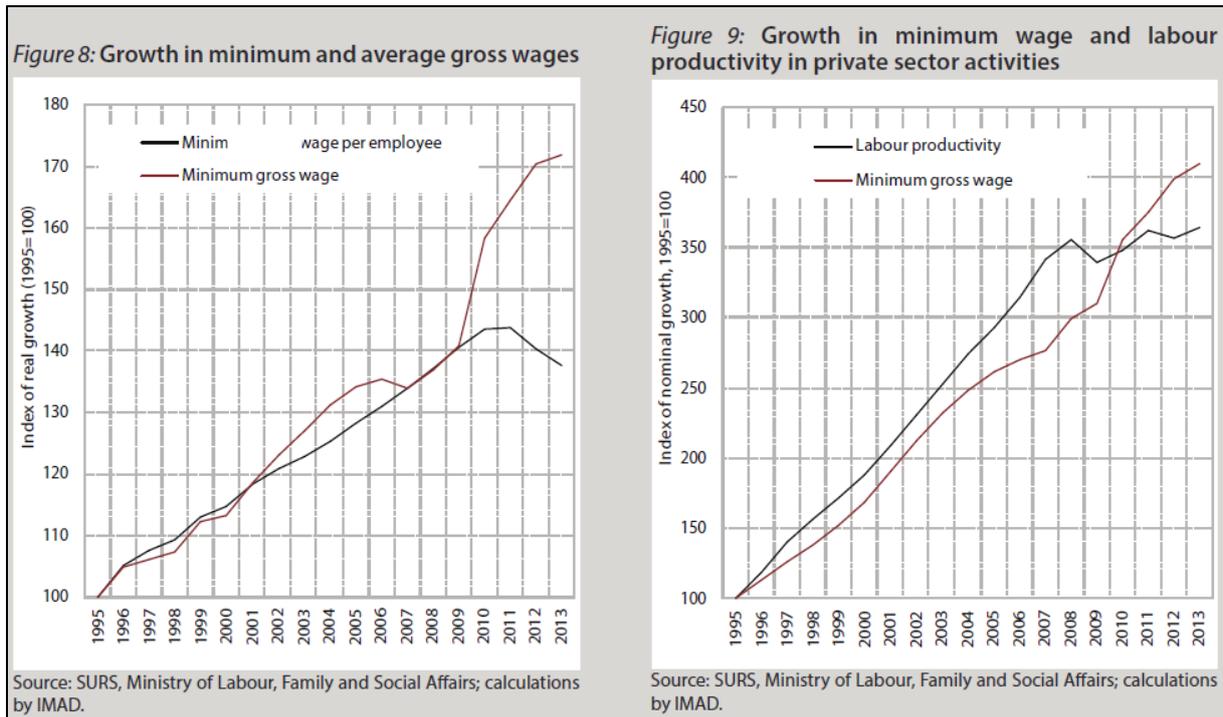


Source: UMAR 2014

In 2014, the number of minimum-wage earners declined for the first time since the new Minimum Wage Act was adopted, but was still 2.5 times higher than in 2009 - the year before adoption. The majority of workers receiving the minimum wage are in private sector activities. On the other hand, the increase in the otherwise small share of minimum-wage earners in public service activities was much larger in 2014 (from 0.3% to 5.5%). The doubling of the number in the last three years (to 8,547) was mainly due to cuts in public servants' wages. Relative to 2009, the number of minimum-wage earners therefore rose relatively the most in education and health and social work, where it was 43- and 15-fold, respectively. In absolute terms, it was up the most in distributive trades, education and manufacturing. Together with administrative and support service activities, construction and health and social work, these sectors employ around 80% of all minimum wage recipients. (UMAR 2015) The latest number of minimum wage recipients is 36791 in September 2015 (28145 in private sector and 8646 in public sector) (AJ PES 2015).

Before this change, the growth rates of the minimum and average gross wages were almost identical, but the increase in the minimum wage in 2010 and the crisis led to a considerable gap in their growth. At the same time the gross minimum wage increased faster than labour productivity in private sector activities measured by value added per employee (see chart 3.3). That led to many suggestions (from domestic and international economic institutions) to reduce the level of minimum wage and to harmonize it with the current labour productivity.

Chart 3.3: Relation between minimum wage and average gross wages and labour productivity



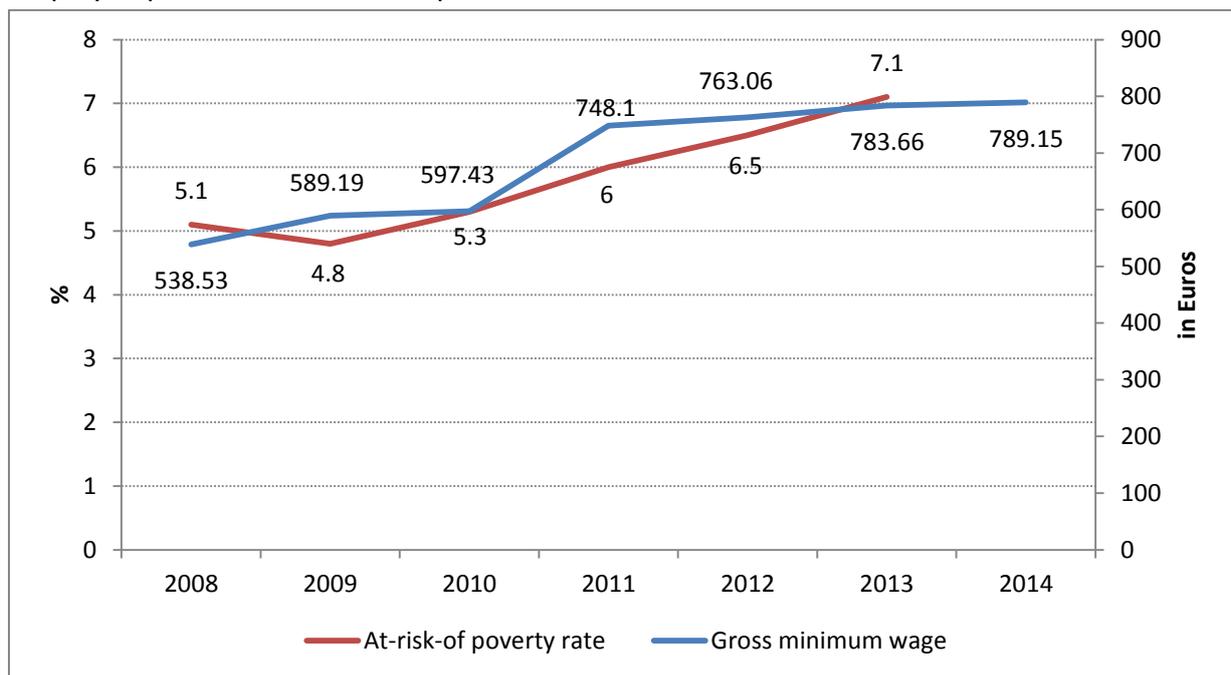
Source: UMAR 2014a, p. 58

In defence of the current minimum wage level it should be stated that its increase came as the response to the findings of the survey Minimum cost of living study published in 2009, which identified the minimum cost of living in Slovenia at 562.02 €. As the level of the minimum wage at the time did not enable its recipients to meet this threshold (and the purpose of the minimum wage is, presumably, to allow its recipients to be able to live at least at the level of minimum standards of living), the trade unions representatives demanded for the new level of minimum wage and the Slovenian government responded to those demands.

On the other hand, the net amount (560.42 €) of the gross minimum wage (789.15 €) in 2014 was still below the identified minimum costs of living (562.02 €) in Slovenia calculated in 2009!!!! We presume that those costs did not fall in the period 2010 - 2015.

Furthermore, this increase of minimum wage in 2010 did not improve much the at-risk-of poverty rates of those employed in Slovenian labour market. As chart 3.4 shows, the in-work at-risk-of poverty rate continued to increase in the period 2009 - 2014 regardless to the increase of minimum wage.

Chart 3.4: Movements of average annual gross minimum wage and at-risk-of poverty rate for employed persons in 2008-2014 period in Slovenia



Data sources: Ministry of Finances 2014 and Eurostat 2014

From the all above mentioned we can conclude that any decrease of the minimum wage will further increase the at-risk-of poverty rate for employed persons! It should be also stated that the wages in Slovenia are already relatively and absolutely low – according to the data from Slovenian Tax Administration almost 70% of all individual tax payers are reporting the payments that are under the average wage in Slovenia (DURS 2014). There are also known cases where some employers also include various bonuses belonging to the worker from work (seniority allowance, overtime pay, reimbursement for meals and transport to work, and the like) in the prescribed minimum wage. This means that these workers are actually paid for their work even less than the minimum wage.

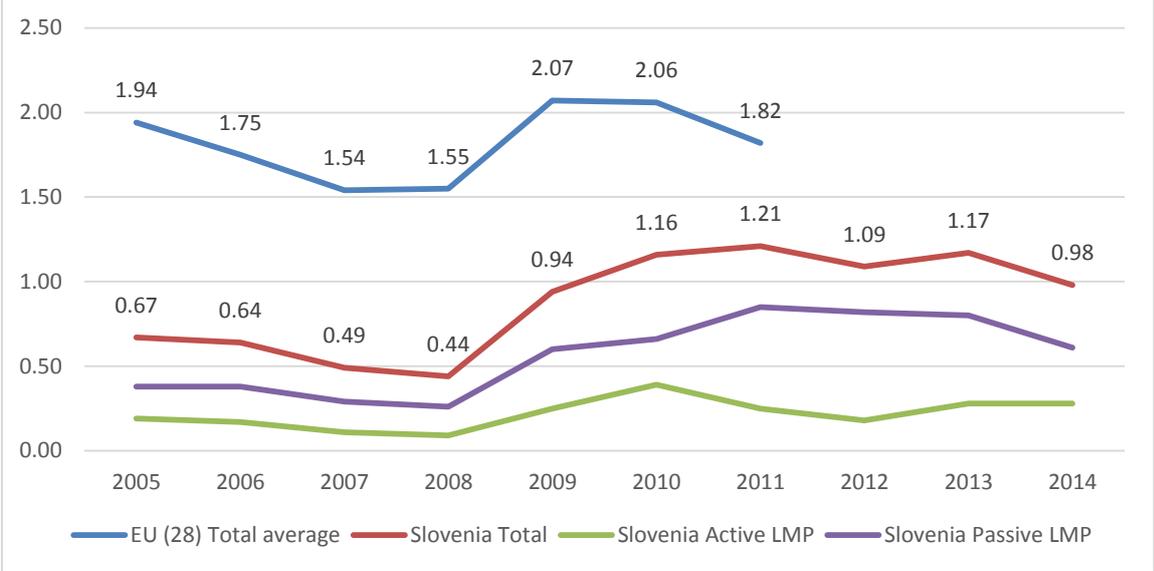
Upgrading gaps

Another important factor which is causing the widening of gaps in Slovenian labour market is Fiscal Balance Act adopted in 2012. Introduced with the intention to enable the fiscal consolidation of public finances, the Fiscal Balance Act has rather negative influence on the Slovenian economy and labour market as well as on the Slovenian society. In many areas there were budget cuts which affected the implementation of many programmes. In relation to the labour market, such budget cuts affected the labour market functioning, the implementation of active labour market policies and social security systems since there were envisaged explicit cuts in the unemployment benefit transfers (from € 271 million in 2012, to € 238 million in 2013 and to € 208 million in 2014) and in transfers for ensuring social

security (from € 236 million in 2012 to € 214 million in 2013 and € 204 million in 2014) despite the official forecast of further increasing unemployment in 2013 and 2014. This affected both unemployed and also those dependent on social assistance.

Furthermore, budget cuts and overall financial crisis in Slovenia affected the implementation programmes within the five different segments of Active Employment Policy in Slovenia. With already well below EU average spending on Active labour market policy measures, Slovenian ALMP programmes are even more dependent on ESF funding.

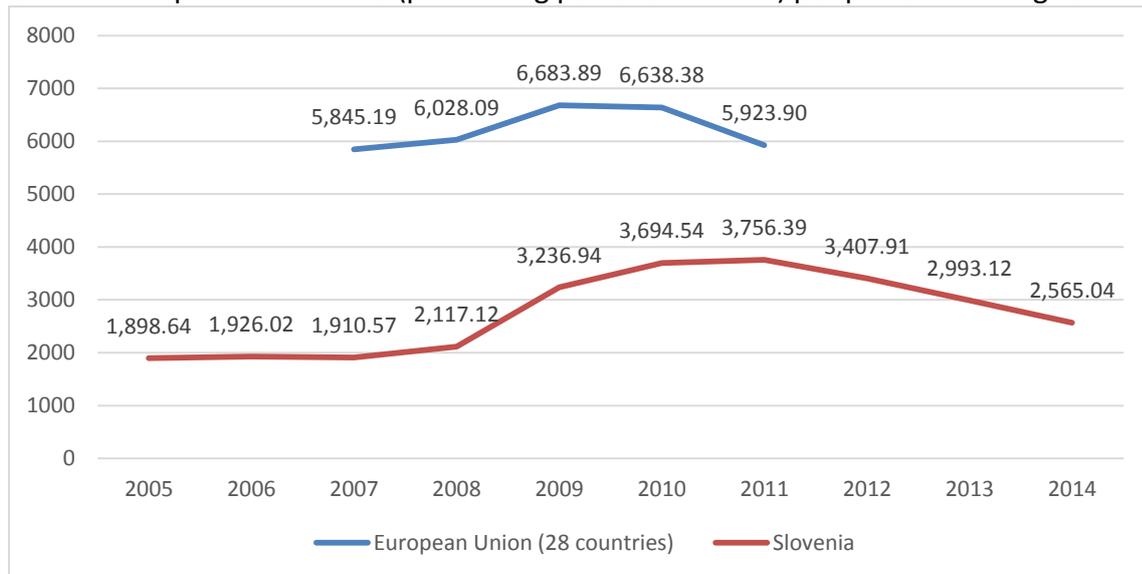
Chart 3.5: LMP Expenditure – percentage of GDP



Source of data: Eurostat 2015

Simultaneously, the data on expenditure in PPS (purchasing power standards) per person wanting to work (chart 3.6) also shows that there is an decrease in expenditure per person from 2011 onwards which reflects the increasing levels of unemployment and relative decreasing governmental intervention in this area.

Chart 3.6: Expenditure in PPS (purchasing power standards) per person wanting to work



Source of data: Eurostat 2015

Beside the effects on the unemployment benefit transfers and (A)LMP measures, the Fiscal Balance Act also affected the situation in the Slovenian public sector with temporary restrictions in new employment in public sector, promotion of those already employed in public sector, and with freezing the wages. Some of those measures (restrictions in concluding civil law contracts – copyright or work contracts, and student work) could actually reduce the segmentation in the Slovenian labour market as a collateral effect. But overall, the implementation of Fiscal Balance Act in public sector could mean potential feminization of precarization in Slovenian public sector where women are predominantly employed.

Integration gaps

As already presented, Slovenian labour market is characterised by strong segmentation on the age basis (prime age workers in standard and secure employment and predominantly young population in flexible forms of employment).

One of the main objectives of the new Employment Relationship Act (2013) is to reduce segmentation by reducing some rights of regularly employed (with standard, secure employment) and increasing somewhat the rights of flexible employed (especially those with fixed-term contracts). According to the MOLFSAE0 reports (2014 and 2015) there were some signs in 2013 and 2014 that the employers were more motivated to hire new employees in permanent full-time jobs, but the number of new fixed-term contracts increased again in 2015.

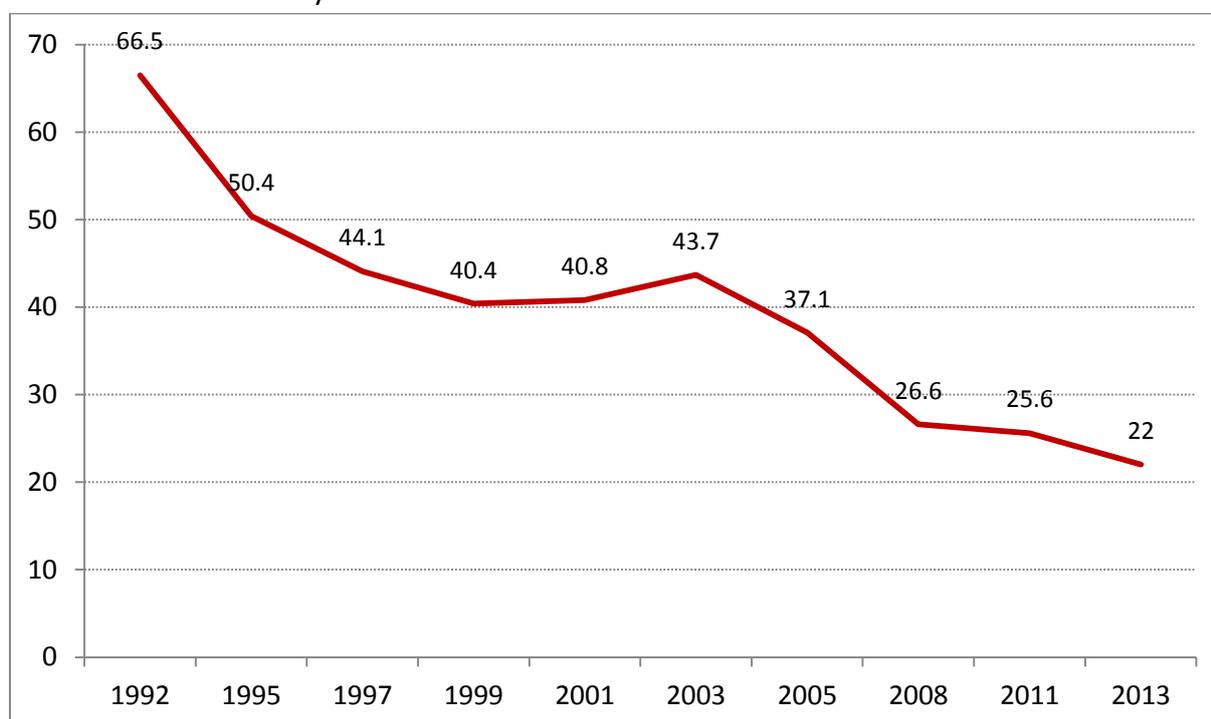
3.2 Representation gaps

Institutional gaps

The reforms in the labour market and in social security system in Slovenia are negotiated and decided on the national level in, still non-formal but extremely important, tripartite body called Economic and Social Council (established in 1995). Here the representative federations of employers and trade unions and the representatives of the Slovenian government discuss, negotiate and decide on most important issues regarding the labour market and social security system. All the decisions should be adopted unanimously.

In the past 20-25 years the situation in the Slovenian labour market has changed noticeably. One of such noticeable changes is the membership of representative bodies. With the transition from obligatory to voluntary membership, both employers' and trade unions' representative bodies lost their previous quantitative strength. For example, as chart 3.7 shows, the union density rate dropped noticeably in the past 20 years. The similar fate has hit the Association of Employers of Slovenia. Both representative bodies had trouble to justify their existence and thus their standpoints were frequently too extreme in defending the positions of their members.

Chart 3.7: Union density rate – Slovenia 1992-2013



Source: Stanojević 2015

This attitude has changed somewhat in the latest period. Some of the representatives (for example the representatives of Chamber of Craft of Slovenia and Confederation of Free Trade Unions of Slovenia increased their cooperation even on the bipartite level).

Moreover, it seems that Slovenian government is trying to promote greater decentralisation and importance of collective bargaining (and thus bipartite negotiations) through restoration of collective agreements on sectoral and company levels. In the Slovenian labour market, Employment Relationship Act (ERA-1) represents a general rule which governs labour relations and determines the hierarchy of legal acts on the basis of which obligations and entitlements are governed: the Act (ERA-1) - Collective Agreement - an internal act of the employer - the employment contract. As a rule, the labour rights in the lower legal acts can be agreed only in more favourable manner for workers than prescribed by the ERA-1. The ERA-1 also provides exceptions to that rule, where workers' labour rights can be less favourable than in ERA-1. Here increases the importance of bipartite negotiations between employers and trade unions.

On the other hand, the General Collective Agreement for the Commercial Sector was cancelled in 2005 and there are still sectors without or with suspended collective agreements. Furthermore one of the most important documents in the field of labour market – the Social Agreement – was missing (not signed and not prolonged) in the 2009-2014 period. After long negotiations between three social partners, the new one was signed in February 2015 for the period 2015-16.

Involvement gaps

Regardless to the declining membership, Slovenian trade unions still have relatively strong position in the tripartite negotiations. The collective agreements coverage is still almost 100 % in sectors with collective agreements.

On the other hand they are still predominantly representatives of the workers with standard form of employment – permanent full-time employment. While formally, they represent also workers in other, more flexible forms of employment, sometimes the interests of those two major groups collide in practice. In such occasions trade unions are usually on the side of the former group.

Thus, in practice, workers in flexible forms of employment/work are less represented by trade unions. Usually, they do not have their representatives in the major trade union confederations and are not unionised at all.

The exception to this rule is the trade union Mladi plus (Youth Plus) which is the part of the major trade union confederation - the Confederation of Free Trade Unions of Slovenia. The trade union Mladi plus represents students, pupils and youth unemployed – all under the age of 35 – and deals with topics such as youth unemployment, youth housing, career counselling and law counselling for their members.

3.3 Enforcement gaps

Mechanism gaps

According to the interviewed and other experts, Slovenia has modern labour market legislation that provides relatively high protection to the Slovenian workers. On the other hand, there is also quite unanimous understanding that there is a big gap between legal provisions provided in the labour legislation and practice. Relatively frequent media reports on different violations of labour market legislation have constructed public opinion that Labour Inspectorate does not perform as it should and that its work (inspection) is not effective.

Some of the most important complaints and issues in the past were:

- unclear division of tasks and responsibilities between different institutions (Labour Inspectorate, Police, Customs, Tax administration) which are responsible for the supervision of the labour market area. This issue was addressed in 2013 when a new divide of responsibilities and tasks was implemented. According to this the Labour Inspectorate is responsible for the inspection of three areas: 1. Inspection control of health and safety at work, 2. Inspection and supervision of labour relations, 3. Social inspection.
- low rate of penalties payments collection.
- passive state institutions in enforcing the law (especially in the case of temporary agency and posted workers) when employers, sending posted workers, are not checked thoroughly (permits are issued too easily).

It should be pointed out that the Labour Inspectorate is understaffed – at the end of 2014 there were only 81 labour inspectors in Slovenia (in 2011 there were 88 inspectors) and they had to cover a little less than 200 000 Slovenian economic entities (data from the end of 2014). (Inšpektorat za delo 2015) The reduced number of labour inspectors is one of the negative consequences related to the implementation of the Fiscal Balance Act that has restricted new hiring and the finances to public institutions. Thus understaffing and overloading of labour inspectors remains a serious problem.

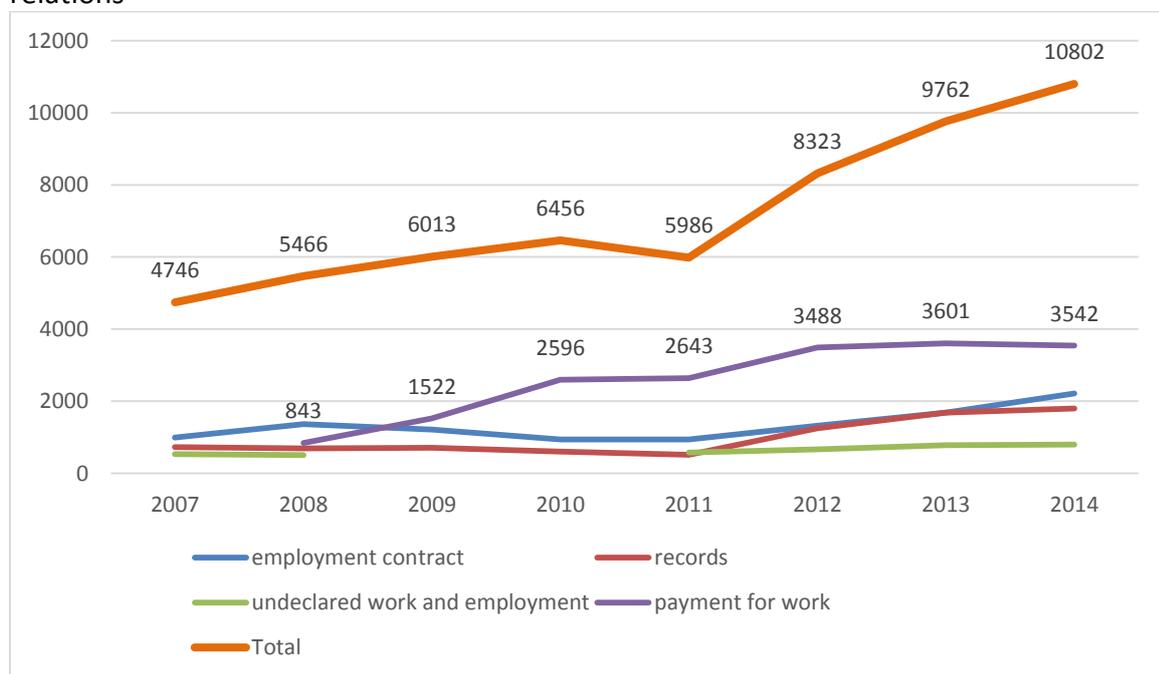
On the other hand, the Labour Inspectorate has become more active in the recent years which is showing in the number of performed supervisions and the number of violations detected.

In the field of health and safety at work, the Labour Inspectorate detected 18834 violations in 2014. Most irregularities in the absolute sense, the inspectors found in construction, namely 20.9% (2013: 23.7%), followed by wholesale and retail trade with 13.4% share of violations (2013: 17.2%), hotels and restaurants with a 13.4% (2013: 12.5%), manufacture of basic metals, fabricated metal products and machinery with 11.4% (2013: 8.5%), manufacture of food products and beverages with 4.9% (2013: 3.6%), professional, scientific and technical activities with a 4 % and

wood and furniture industry with 3.8 percent share of infringement (2013: 3.5%) and transport 3.4%.(Inšpektorat za delo 2015, 29)

The economic crisis has also influenced the increase in the number of violations in the field of labour relations. (see chart 3.8). The economic crisis serve for many employers also as an excuse for non-compliance with the law. There are numerous violations and abuses of labour law, especially in the area of ensuring the fundamental rights of workers from work, which undoubtedly includes ensuring the right to work. With all the violations that weakens the position of the employee, the Labour Inspectorate also detected a low level of liability of employers, as well as the low level of empathy and social support to employees.

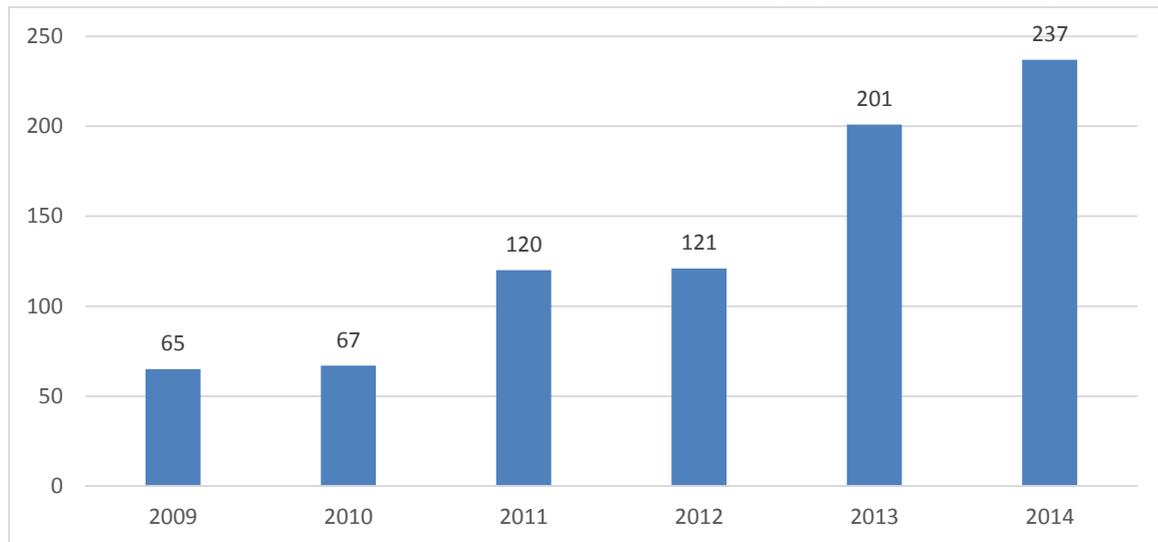
Chart 3.8: The number of the most frequently identified violations in the field of labour relations



Source: Inšpektorat RS za delo 2015

Violations are primarily related to the ban on contracts of civil law (see chart 3.9) (specifically, forcing workers to obtain the status of a sole proprietor – bogus self-employment), which is used by more and more employers. Employers often argue that workers themselves want to work as independent contractors and some workers actually do want to have more independent status, but this does not affect the prohibition on the conclusion of civil contracts, if the actual relationship has elements of the employment relationship. In such cases it is necessary to conclude an employment contract and other forms of contractual relations are not allowed.

Chart 3.9: The number of detected violations of the prohibition of work on the basis of civil law contracts in cases where there are elements of the employment relationship



Source: Inšpektorat RS za delo 2015

The similar situation is with the student work, which is quite widespread in the Slovenian labour market – it is often used also in the cases where there are present all the elements of the employment relationship. Abuses may also relate to the suspension of payment of compensation to workers during justified absence from work. Furthermore, there is increasing number of companies registered in Slovenia that carry out their activities abroad through posted workers.

In the area of control of labour relations in 2014, the Labour Inspectorate has identified the problems posed by certain practices of employers, which otherwise go beyond the jurisdiction of the labour inspectors to take action. For example "chain" establishment of a large number of companies under one system, interlacing ownership of companies operating in one core business, the transfer of ownership to persons who do not have virtually no effective link with the company and do not intend to proceed with the activity of a company having problems in business, "transferring" the company seat to a variety of destinations, where there is no indication about the company, changing the person in charge the company, which is usually inaccessible, is a foreigner, unemployed person or a person without own property. (Inšpektorat za delo 2015)

In this area, a representative of Free Trade Union Association emphasized a good cooperation between Labour Inspectorate (inspectors) and trade unions' representatives in fighting different violations of labour law. The representatives of the Slovenian Free Trade Unions Association and the Labour Inspectorate pointed out that for actually solving or preventing such violations or abuses, the activities of the inspectorate are not sufficient and that appropriate systemic solutions are needed. One such solution would be envisaged changes of the Companies Act, prepared by the Ministry of Economic Development and

Technology, under which, inter alia, the employer, in which the infringements were recorded in respect of remuneration for the work will not be able to set up a new company.

In 2014, the majority of violations were found in construction (1910), in restaurants and accommodation activities with serving food and drinks (1134) and in commerce (1015). Numerous violations were recorded in activities of land transport and transport via pipelines (781).

In the area of payment (remuneration) for work, inspectors also found frequent violation related to pay-outs of wages and other benefits from the employment relationship (3542), followed by the violations in respect of employment in the broad sense (2213), and in relation to the records in the field of labour and social security (1796) (see chart 3.8) (Inšpektorat za delo 2015, 50).

Awareness gaps

Regarding the awareness gaps, there are several factors that are affecting the level of awareness about the legal rights among employees/workers.

Often changing legislation is one of the factors. Especially in the recent period, from the beginning of the economic crisis onwards, there are numerous amendments to the legislation related to the labour market and social security. Frequent changes make it difficult for employers, HR managers and especially employees/workers to stay informed about their obligations and rights. Different groups of employees/workers (older workers, less educated, youth, nonunionised, migrants and employers (especially small entrepreneurs) have even harder time in understanding their rights.

Furthermore, employers are not aware of long-term consequences of flexibilisation and lowering standards for their employees, workers and for employees/workers families.

Power gaps

The fear of loss of job/employment was and still is higher among Slovenian workers than in the EU – according to the data from the Fifth European Survey on Working Conditions for Slovenia (table 3.1).

Table 3.1. Workers who are afraid of losing job in next 6 months (%)

	Slovenia	EU 27
Total	27.0	16.4
Male	27.4	16.5
Female	26.5	16.3

Source: Kanjuo Mrčela and Ignjatović 2012

This fear (which partly emanates from the changes in the power relationship between employers and workers) is the important factor in accepting employers' proposals which are not in line with the labour legislation (for example: bogus self-employment in some sectors due to the fear of loss of job).

The fear of loss of job is also important factor for not reporting employers in the case of undeclared employment or work, regardless to the opportunity (provided by the changed labour legislation) to get permanent employment in the case of reporting the undeclared employment.

Coverage gaps

Regarding the coverage gaps, there is a problem of unknown extent of unregistered workplaces, informal and illegal employment in the Slovenian labour market as well as unknown (at least officially) extent of civil contracts.

3.4 Social protection and integration gaps

Eligibility/entitlement gaps

The eligibility/entitlement gap in social protection occurs due to the type of employment/work contract between the employer and worker/employee. More flexible forms of employment have only proportionally covered social protection.

4 Fixed-term work

The employment contract for a fixed term period is one of the atypical forms of employment which, in past 20 years, became one of the predominant forms of employment contracts in Slovenia as it provides to the employer a greater degree of flexibility to adapt to business circumstances. Growth in the share of temporary employment has been particularly rapid from the mid-nineties of the 20th century, when the share of persons in employment in this form of employment more than doubled in a relatively short period of time. Later, the growth trend slowed down somewhat (10.5% in 2001 and 11.7% in 2014), but the growth has continued, mainly due to the creation of new jobs, among which fixed-term jobs predominated. Thus, the share of fixed-term vacancies increased from about two-thirds of all new vacancies at the beginning of the new century to more than 80% in the years 2011 and 2012 (Vlada RS 2012). Recent changes to labour legislation (Labour Relations Act) in 2013 somewhat restricted fixed-term employment, which was also reflected in the small decrease in the share of the fixed-term vacancies (in February 2014, this share was 71.1%) and slightly lower the proportion of the persons in employment employed in fixed-term jobs. The comparison between 2004 and 2014 shows that the proportion of fixed-term workers fell by 1.4 percentage points in this period. Gender structure of persons employed in fixed-term contracts is fairly uniform: among persons in employment in the second quarter of 2014 there were 11.9% men and 11.7% women employed for a fixed term period.

Since the Slovenian labour legislation (ERA-1) regards all non-permanent contracts of employment as exceptions to the rule, the conclusion of fixed-term contracts is limited from the substantive and time perspective. In substantive terms the employment contract may be exceptionally concluded for a fixed term in cases of: work which by its nature is of limited duration, replacing a temporarily absent worker, temporarily increased scope of work, employment of a foreigner or person without citizenship who was granted a work permit for a defined period of time, except in the case of a personal work permit, a manager or holder of procuration, performance of seasonal work, performance of public works and/or participation in the measures of active employment policy in accordance with an Act, preparation or implementation of project-organised work, etc. (ERA-1, article 54) From the temporal perspective, the fixed-term employment contract can be made for any short period of time. In practice, it is normally at least one month long, while the upper limit of the duration is limited to two years. The employer should not conclude one or more successive contracts for fixed-term employment with the same worker for the same work, whose continuous duration would be longer than two years (quarterly or shorter interruptions do not constitute an interruption). There are also some exceptions to this rule – for example, if the project lasts more than two years and if the employment contract is concluded for the entire duration of the project.

If the fixed-term contract is in breach of the substantive and temporal limits, the sanction for the violation is transformation of the contract into a contract of indefinite duration.

Labour, social and tax aspects of the fixed-term employment contract are governed by the same legal sources as for a contract for an indefinite period. Workers with fixed-term contract have (during the duration of the contract) the same rights and obligations in relation to the employer as permanent employees. On the other hand, from the perspective of the worker the biggest difference between the two types of contracts is greater degree of uncertainty linked to the duration of the relationship, which could be extended but only by the wish of the employer – the worker has no influence on it.

As the duration of the fixed-term contracts is as a rule of shorter nature, it offers lower social security to the fixed-term workers in the event of termination of employment. Thus, until the amendments of the ERA-1, the employer had no financial obligations to the fixed-term worker after the termination of the contract. As already presented, from 2013 and new ERA-1, a fixed-term worker whose contract is expired is entitled to severance pay with the exceptions in the case of replacing a temporarily absent worker, of performing shorter (up to three months) seasonal work and in the case of public works. The basis for calculating the severance payment is the average monthly salary of the full-time worker for the last three (or less) months, while the amount of compensation depends on the duration of the employment relationship. This arrangement brings the rights and obligations of the both parties to the arrangements applicable to the employment contract for an indefinite period.

Furthermore, the termination of fixed-term contract is also the basis for obtaining unemployment benefit, but only if the person meets other conditions. Labour Market Regulation Act, adopted in 2010, as already presented, relaxed somewhat those conditions, offering unemployed benefits to all persons that were employed (insured for the case of unemployment) for at least nine months in the last 24 months (or at least six months in the last 24 months if the person was under 30 years of age) (LMRA, articles 59 and 60).

The extent of labour rights

During the period of employment for a fixed period of time, employers and persons employed for fixed period of time have the same rights and obligations in an employment relationship of indefinite duration, unless the law provides otherwise (ERA-1, article 57). Thus, the employer has exactly the same obligations with regard to the provision of labour, regulation and restrictions on working time (eg. the right to breaks and rest periods, overtime, night work, working hours) and respect the worker's privacy and dignity.

Wages of fixed-term workers are governed by the same legal norms (eg. the right to a minimum wage) and structured the same way as in the case of employees for an indefinite period. They consists of basic salary, part of the salary for merit pay for performance and additions for seniority (this does not depend on the duration of the employment relationship with the current employer, but the on the total duration of employee's employment history) and unfavourable distribution of working time and any additions under collective

agreements for special working conditions. Other elements (eg. reimbursement of travel expenses, reimbursement of the cost of food, wage compensation for the period of justified absences – for example for a period of sick leave) of employee's wage also do not discriminate between fixed-term and permanent employment. The exception to this rule is a retirement bonus, equal to two average Slovenian wages, for a worker who has been employed with the employer for at least five years before the retirement. In this case older workers, who work for an employer on the basis of fixed-term contracts, practically have no chance to obtain this bonus.

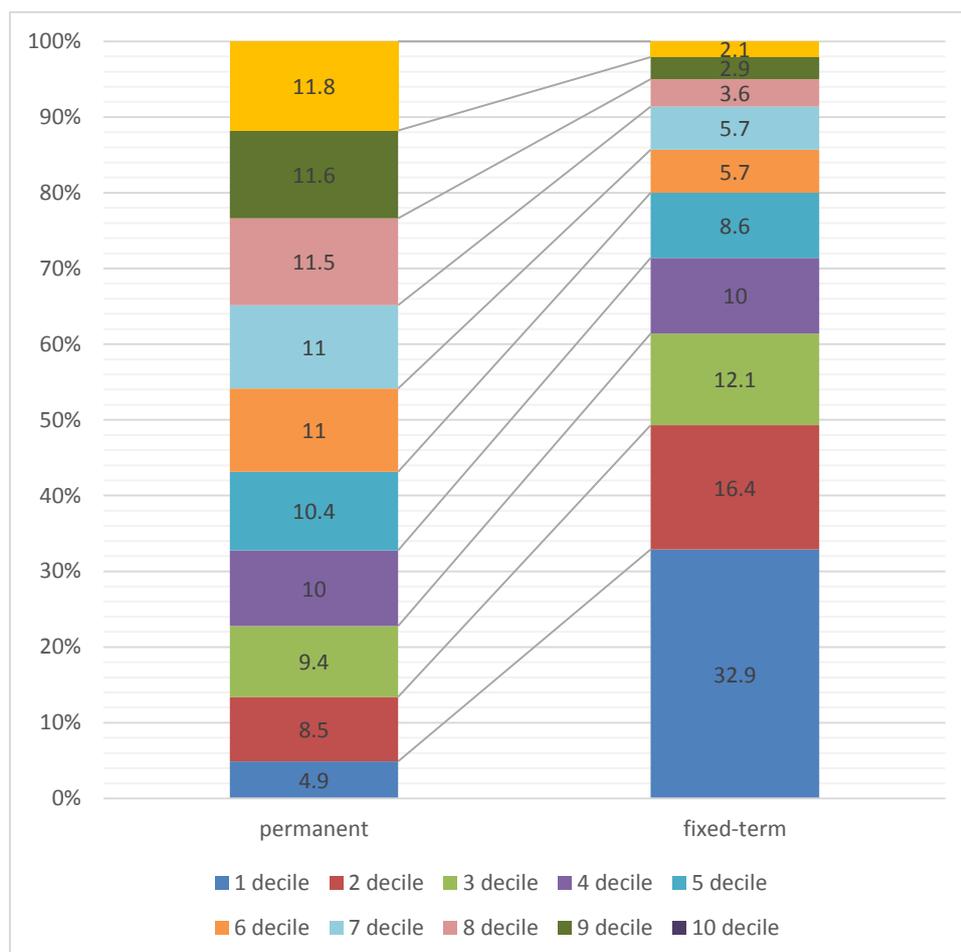
From 2013 there is also no difference between fixed-term and permanent contracts in the right to annual leave and holiday allowances. The worker acquires the right to annual leave from the signing of the employment contract (and not until six months after that, as the previous Employment Relations Act stipulated). The person with the fixed term contract is entitled to a proportional part of annual leave and hence to a proportional pay for annual leave.

The extent of social rights

During the period of employment, fixed-term worker is insured for all those labour related risks (for example, unemployment, health insurance, pension and disability insurance and parental protection) as it applies to the employees for an indefinite period of time. However, due to the shorter duration of employment, from the perspective of worker's exercise of social rights, in practice, workers with fixed-term contract are in a less favourable position than permanent employees. The social rights are often dependent on the length of periods of insurance (employment), with set minimum period of insurance as a condition for acquiring the right. In addition, the amount and/or duration of social insurance often depend on the length of prior insurance. As fixed-term workers have during their working cycle several interruptions and less possibility of continuous periods of insurance, the length of employment relations has a negative impact on their social security. (Rajgelj 2015)

In the case of Slovenian workers with the fixed-term contracts, their less favourable position regarding the financial and social security, in comparison to the permanent employees could be presented by the comparison of distribution of income. As chart 4.1 shows, almost the half (49.3%) of workers with fixed-term contracts are found in the first two deciles (containing the lowest income quintile).

Chart 4.1: Income (by deciles) for permanent and fixed-term employed persons in Slovenia, 2011



Source: Eurostat LFS Data for Slovenia (LFS 2011), own calculations

Financial aspects and taxation

The employer is in the case of fixed-term contract in principle burdened by the same financial burden as in the case of the contract for an indefinite period. Simultaneously, fixed-term workers are entitled to equal pay and other benefits from work as an employee for an indefinite period.

In principle, the fixed-term contract in terms of fiscal obligations of the employer and the worker is treated the same as a contract of indefinite duration. But, the amendments to the Labour Market Regulation Act in 2013, in order to encourage employers to hire workers for an indefinite period and to limit the fixed-term employment, introduced an exception. According to this exception, the permanent employment contracts that are signed from 04.12.2013 onwards are exempt from payment of the employer's contribution to unemployment insurance for two years (LMRA-A, article 39/1). On the other hand, the employer who signed the fixed-term employment contract should pay the employer's contribution to unemployment insurance equal to five times the amount stipulated in the

law that governs social security contributions, throughout the duration of fixed-term employment (LMRA-A, article 39/2).

5 Less than guaranteed full-time hours

If the proportion of fixed-term employment grew particularly fast from the mid-nineties of the 20th century, the rapid growth in the share of part-time work in Slovenia was especially noticeable since the beginning of the 21st century. The comparison between 2004 and 2014 shows that the proportion of part-time workers increased by 2.6 percentage points. Thus, in 2014, the proportion of employed persons who work part-time, reached 12.8% (SORS, 2015). This increase, especially noticeable after 2008, was also influenced some adopted laws (subventions for employers, who reduced working week to 36 or even 32 hours per week, for keeping the wages of employees on the same levels as they performed work of 40 hours per week), which to some extent temporarily limited the effects of the economic crisis.

The part-time employment contract is a modality of employment contracts of indefinite duration for full-time work, which is separated from the standard contract by the length of working time which is shorter than full-time. In principle, in Slovenia the full-time is perceived as 40 hours a week, but the individual employer may set a shorter time as a full-time standard. According to the Employment Relations Act (ERA-1), the latter definition (concrete employer) of full-time work is applicable also in the case of defining the part-time employment contract (ERA-1, article 65). On the other hand, Statistical office is defining the part-time work as 35 hours or less per week. Since the law does not specify a minimum volume of working hours, it may be arbitrarily short, but in practice it is usually around 20 hours per week.

The Slovenian labour legislation makes (according to Rajgelj 2015) distinction between two types of part-time employment contracts. The first type is based on the will of the both parties: if a worker and an employer wish to conclude a part-time contract of employment, because it suits them and thereby both agree about it, then we can talk about a contract of employment with part-time at the discretion of the parties. The second type of part-time contract is based on the law provisions which stipulate that an employee has the right to demand part-time employment contract even against the will of the employer. An example of this legal basis is the Law on Parenthood and Family Incomes, according to which one of the parents who cares for a child up to three years of age or for at least two children until the end of the first grade of primary school (of the youngest child), the right to the part-time employment contract. Similar legal basis for part-time work can also be found in the pension and health care legislation.

The number of part-time contracts that one person can have simultaneously is not defined, but they could be concluded with several employers, so that the person reach full-time equivalent. The part-time employment contract is generally concluded for an indefinite period, but it can also be concluded for a fixed period.

The extent of labour rights

Part-time employees have the same contractual and other rights and obligations as the full-time employees, but in the proportion to the working time specified in the employment contract. This also applies to the right to payment for annual leave, but only in a case of the contract for part-time at the discretion of the both parties. An employee, who works part-time for at least four hours a day, is entitled to a break during daily working hours in proportion to the time spent at work (ERA-1, article 154).

On the other hand, in the case of second type of part-time contract, the worker with such part-time contract has guaranteed some full rights (as full-time worker) he/she is entitled to annual leave in the minimum duration (4 weeks) and annual leave allowance, which apply to workers with full-time contract.

The extent of social rights

The main difference between the two types of part-time contracts presented above is in the extent of social rights. While the social rights in the case of the first type of contract, are proportional to the working time set in the contract and the difference to the social rights guaranteed for the full-time contract is not covered by anybody, the part-time worker under the second type of part-time contract has guaranteed social insurance rights as if they had worked full-time (ERA-1, article 67, Rajgelj 2015).

The amount of working time set in the part-time contracts has important influence on the level of social rights guaranteed to the part-time workers and implemented in the practice. It thus has also important effect on the growing gaps in the social security between part-time and full-time workers.

For example, in the case of unemployment insurance, since part-time employed are paid according to the actual number of hours performed in the contract, and their wages are as a rule lower than the earnings of those employed for full-time, their unemployment benefits are also lower (but not lower than 350 euros, which is the minimum unemployment benefit set by the LMRA).

In the case of health care and health insurance, part-time workers are insured as all other persons who are employed in the Republic of Slovenia. Policyholders have insurance on the basis of the right to health care, the right to benefit during temporary absence from work (the sickness) and the right to reimbursement of travel expenses for visiting the doctor off-site. Medical services and reimbursements of travel expenses are paid in full, while sick leave benefits are lower for part-time workers due to the lower basis for calculation (average monthly wage in the calendar year before the sickness).(Rajgelj 2015)

Similar gap could be traced in the case of pension and disability insurance. All employees regardless of whether they are employed for full-time or part-time are required to be

insured for pension and disability insurance according to the Pension and Disability Insurance Act (ZPIZ-2, article 14). But, concrete requirements for the old-age pension (long enough insurance periods and the amount of the pension base) have an important impact on the level of pensions in the case of part-time contract. While in the case of full-time permanent employment one year of insurance provides one year of insurance period, in the case of part-time employment for the compulsory insurance would be considered only the period of insurance, which corresponds to the total number of hours of part-time work in each year, converted into full-time (Rajgelj 2015). This means that for the part-time worker only half a year can be counted in the insurance period instead of the whole year. To alleviate such discrepancies, the Pension and Disability Insurance Act allows that part-time workers voluntarily engage in compulsory insurance for a distinction to full-time work (ZPIZ-2, article 25). When dealing with the social security of part-time workers it should be also noted that due to the payment on the actual work performed, their wages and thus the amount of the pension base, from which the pensions are assessed, are normally lower than those of full-time employed.

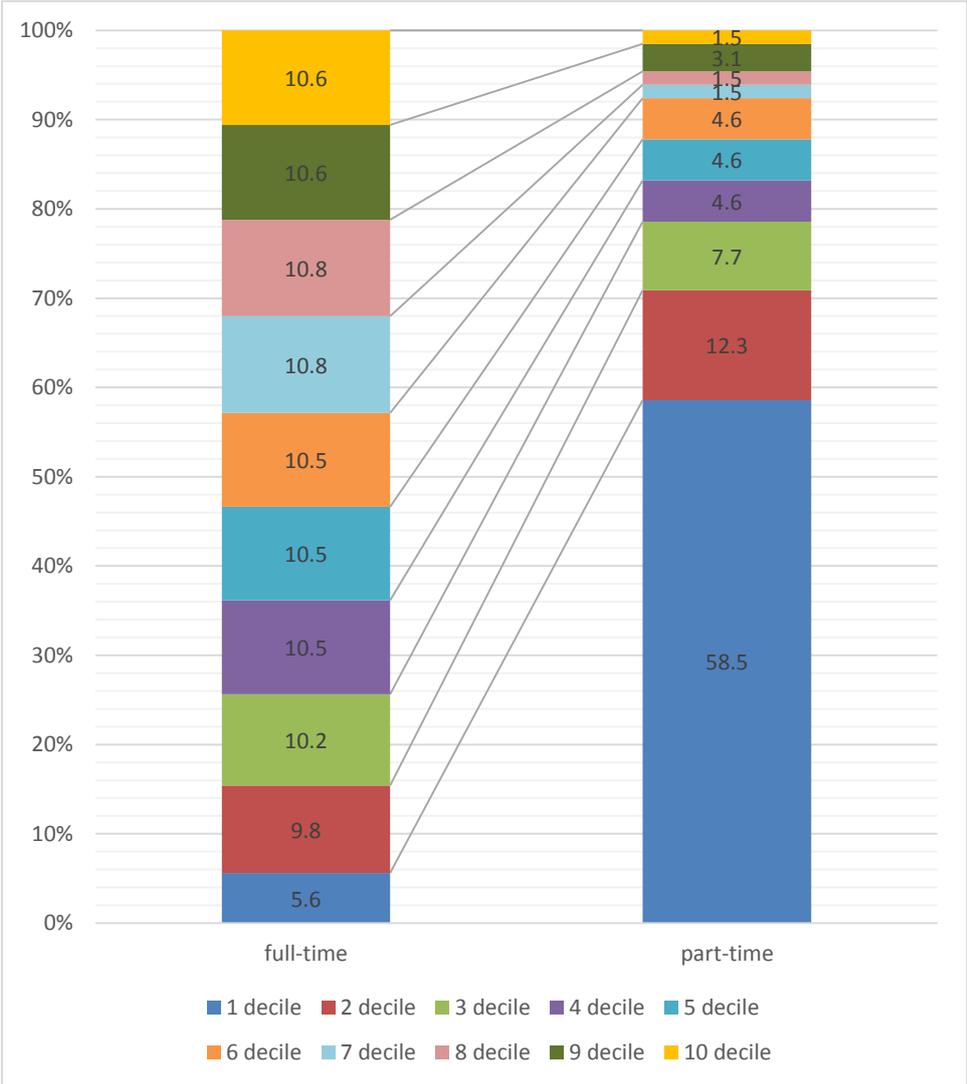
Financial aspects and taxation

For employers the part-time contracts (depending on the scope of work performed by the employee) represent similar financial burden as the full-time contracts.

Following the rule that employer's financial burden should be proportionate to the working time set in the contract, the wage, in the case of a contract of part-time at the discretion of the both parties (type 1 of the part-time contract) is paid according to the actual working time performed, and consequently social contributions are also dependent on the actual time worked. Some of the other revenues from work are also paid on the pro rata basis (ie. annual leave bonus) and some in full amount (eg. travel reimbursement). The financial burden for the employer, therefore, is not completely neutral. In the case of a contract of part-time under the law (type 2 of the part-time contract) the employer's burden is even higher, because the law for example provides that the worker in this case has the right to the full and not merely the proportional payment for annual leave.(Rajgelj 2015)

From the perspective of workers employed for part-time, their financial situation (wages) and consequently also social security are profoundly affected by the amount of working time set in the part-time contracts. Their position regarding financial and social security is even less favourable than the fixed-term workers' position when comparing the income distribution. As chart 5.1 shows, more than the half (58.5%) of workers with part-time contracts are found in the first decile in 2011.

Chart 5.1: Income (by deciles) for full-time and part-time employed persons in Slovenia, 2011



Source: Eurostat LFS Data for Slovenia (LFS 2011), own calculations

Part-time work is also slowly becoming feminized - in 2001, there were 44.4% for men and 55.6% women among the employees in this form of employment, while in 2014 the share was 40.3% men and 59.7% women. The comparison with the EU28 average for the year 2014 (2 quarter) shows that the proportion of men working part-time (among persons in employment) was slightly lower in Slovenia (7.6%) than the average in the EU-28 (8.9%), while the proportion of women working part-time was significantly lower in Slovenia (14.8%) than the average EU-28 (32.4%). (EUROSTAT, 2015). It should be noted that in Slovenia, women are predominantly employed for full-time while women in many other European countries constitute the majority of part-time workers. Furthermore, part-time work in Slovenia is still less desired by employers as well as by workers – due to the fact that wages for part-time workers usually, at least in countries with low GDP per capita, are not sufficient to provide a decent standard of living. Moreover, the social policy as well as welfare state

with its structure, its social actions and services does not encourage this form of employment.

5.1 In-work regulatory gaps

As already stated benefits are proportional to the working time for those in part-time jobs (holidays, entitlements...).

5.2 Representation gaps

In some cases there are issues with voting rights for those working part-time for less than half time in the organization. In some cases, the membership and the voting right are ascribed only to those working full time. (FDV).

5.3 Social protection and integration gaps

As already stated in-work benefits are proportional to the working time for those in part-time jobs - proportional to the type of employment contract.

6 Temporary agency work in Slovenia

Providing workers to other employers through temporary agency work is another area that is becoming increasingly important part of the Slovenian labour market. Thus, at the beginning of 2015, more than 90 companies obtained a concession to perform this activity, which allows employers to reduce the labour costs and hire workers only for a time when they are needed. On the other hand, despite the fact that agency workers have the same rights as regular employees working for employers, in practice there a lot of violations of their rights (from the lower wages for the same work as an regular employee with the employer through the absence of various benefits received by employees to shorter leaves and different treatment of sick leaves). This worsens their situation on the Slovenian labour market and increases the risk of reducing their social security.

Slovenia adopted legislation which enables the establishment of private employment agencies and the possibility of providing workers to a client company (temporary agency work) relatively late – in 1998, with the amendments to the Zakon o zaposlovanju in zavarovanju za primer brezposelnosti⁷ (Employment and Insurance against Unemployment Act – IAUA). According to the IAUA (article 6), the mediation of employment and work was still carried out by the Employment Service of Slovenia, but the Ministry of Labour, Family, Social Affairs and Equal Opportunities could authorize (through concession contracts) the organisation or employers who fulfil the personnel, organisational and other conditions, to carry out mediation of employment, mediation and providing the labour, preparing employment plan and implement active labour market policy measures. Before that, the state had the monopoly on providing services to unemployed and for matching them with job vacancies. Exceptions were the agencies for providing temporary jobs to pupils and students in the form of student work which was introduced in 1959 (Tojić 2006). Thus, Slovenia has some relatively long tradition and experience with the activity of providing workers to a client company, although with specific groups (pupils and students).

The Employment Relationship Act (ERA-1, articles 59-63) regulates the relations and all other issues regarding the activity of providing workers to client companies. Thus, such activity means triangular employment relationship between worker, employment agency and employer as a user/client, in which the employee performs work on the basis of referral. The worker's contractual employer is the agency and contract can be signed for a definite or indefinite period. There should be a written agreement between agency and employer in which mutual rights and obligations (between agency and employer) and the rights and obligations of the worker and the client company must be defined in great detail. (ERA-1, article 62). Workers' rights do not depend solely to contracts of employment but also of a written agreement between the Agency and the client company, of which the employee must be informed when posted. Notwithstanding the written agreement the user is

⁷ http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/zzzpb.pdf

responsible for compliance with the provisions on the protection of health at work and on working time, breaks and rest periods.

The ERA-1 defines also specifics of the employment contract between the worker and the agency who act as the employer (Article 61):

(1) The worker and the employer providing work shall agree in the employment contract that the worker will temporarily work in the undertaking of the client company for the period defined in the worker's assignment.

(2) The employer providing work and the worker shall stipulate in the employment contract that the amount of remuneration for the work and the compensation will depend on the actually performed work, taking into account the collective agreements and the general acts binding individual user undertakings.

(3) In the event of an indefinite duration employment contract, the employer providing work and the worker shall also agree on the amount of wage compensation for the period following early termination of work with the client companies' undertaking and/or for the period in which the employer providing work fails to assure work with the client companies' undertaking; the wage compensation may not be lower than 70% of the minimum wage.

The temporary agency work is limited both in content and scope. Firstly, agency work is not admissible if it is to replace workers on strike, if the client company in the last 12 months terminated employment contracts to a larger number of workers and in the case of risky jobs (ERA-1, article 59). Furthermore, the number of workers assigned to a client company may not exceed 25 per cent of the number of workers employed with the client company, except if otherwise provided by a branch collective agreement. This limitation does not include workers who are employed for an indefinite duration with the employer providing work. The limitation referred to in this paragraph shall not apply to a client company who is a smaller employer.

The market of providing workers for other employers in Slovenia could be described as mature if we take into consideration student work. On the other hand, if we take into consideration only temporary agency work, the market could be described as developing since the data, according to the Ministry of Labour, Family, Social Affairs and Equal Opportunities, shows an increase in the number of temporary agency workers from 2009 to 2013. In 2009 the agencies provided 9,898 workers (of these, 1,373 were permanent employees, and 8,525 were fixed-time employees) to the employers, while in 2013 the number was 15,918 workers (7,518 permanent employees and 8,400 fixed-term employees)(MDDSZEM 2015). The number of temporary agency workers in 2013 represented approximately 1.7% of the total number of people in employment. Student work at the same time represented approximately 2.5% of the total number of people employment. The Association does not have the data on the number of temporary agency workers provided by the private employment agencies to the users/employers, but the

estimates are slightly lower than the data from the Ministry. According to the Association's representative (interview with the AEA representative, 2.10.2015) the TW agencies provided from 10,000 to 12,000 workers in 2013.

The extent of labour rights

In the employment contract, the worker and the TW agency agree that temporary worker will work for other client company in the place and time to be determined by the worker's referral to the client company.

One of the fundamental dilemmas of temporary agency work is after which rules should temporary worker be paid: the rules applicable to the Agency or to the each client company. The law provides that the temporary work agency and the worker shall stipulate in the employment contract that the amount of remuneration and allowances should depend on the actual performance of work with client companies, taking into account the collective agreements and general acts that bind individual client companies (ERA-1, article 61). In the employment contract for an indefinite period, the temporary agency and the worker also agree on the amount of wage compensation for early termination of the work for the client company, or the time when the agency worker does not guarantee work with the client company, which cannot be lower than 70% of the minimum wage (ERA-1, article 61).

During the workers performance of work with the client company, both parties should be committed to respecting the rules that apply to the client company (including collective agreements and general acts of the client company). The temporary worker's rights also include the right to use the benefits that the client company provides to its own workers. In the past period, before the labour inspectorate tightened the control, there were many reports that temporary workers were denied access to such benefits. Furthermore, temporary workers were often pressured not to take annual leave or sick leave.

The extent of social rights

During the temporary agency labour relationship, the temporary worker is insured against all labour risks (for example, unemployment insurance, health insurance, pension and disability insurance and parental protection) as all the employees at the client company. However, since the agency working relationships normally last a shorter time than traditional labour relations, the social rights of temporary workers are similar to workers employed for a fixed-term period – short insurance periods have a negative impact on the social security of temporary workers.

6.1 Migrant and posted workers

Migrant workers

After the start of economic crisis in the second half of 2008, many of the violations related to the working and living conditions of the migrant workers in Slovenian labour market and status in the society became visible – so much that the new amendments to the Employment and Work of Aliens Act had to be adopted in 2011.

In the first half of 2010 the most media-exposed case was the case of migrant workers in construction working in extremely poor working conditions, exposed to hazards at work, extreme weather and receiving very low (lower than agreed) pay, frequently in the form of cash in hand. They were completely dependent on employers due to the unpaid wages. Living conditions were also extremely poor; resulting in many tired and poorly fed workers barely getting through the month and in such a bad condition even trying to take care for families in Bosnia, Serbia, Macedonia and Montenegro sending them all

Most important violations, noted by the trade unions, supervisory authorities and the Employment Service of Slovenia were:

- Inadequate housing for foreign workers and exorbitant rents;
- Payment avoidance or payment in cash without receipts and non-payment of social security contributions for foreign workers;
- longer working hours;
- Mass creation of limited liability companies through proxies in Slovenia, while the founders of the company are foreign natural persons in their own country (outside EU). Based on the established company, the owners obtained work permits for two persons and two residence permits in the Republic of Slovenia. Since the purpose of the foreigners was not carrying out activities in Slovenia, after obtaining residence permits which allowed them to move to other Schengen states, their proxies are closed;
- The acquisition of a large number of work permits "in stock" while the employers held back their workers in their countries until new business was acquired;
- Preventing foreign workers with at least secondary vocational education, to get, after working two years for the same employer, the possibility of obtaining a personal work permit valid for three years.

New amendments to the Act, among other issues, sought to strengthen the protection of the rights of foreigners who are employed or working for the Slovenian employers. Thus, alien worker with at least secondary vocational education could obtain personal work permit for three years after at least 20 months of continuous employment for any employer in Slovenia. Condition of 20 months employment has been set taking into account the fact that the alien, after obtaining an employment permit must obtain also a residence permit before he/she can be employed in Slovenia.

Another important change is that on the one hand, it brings more protection and security to foreigners, and on the other hand, it implies a tightening of conditions relating to the renewal of the employment. The Employment Service will now also in the extension of the employment permit, and not only in the issuance of new permits for employment, verify that the employer has in the last six months prior to submitting an application the calculated withholding tax on income from employment or payment instrument and settle taxes and contributions from the employment and labour.

The new law comprehensively solves the problem of non-registration of foreigners in social insurance, as the law interwoven throughout the entire provision obliges employers to pay taxes and contributions, subject them to obtain work permits are threatened with revocation of licenses, a ban on the issuance of new work permits and extensions of previously issued licenses and provide for criminal sanctions. The employer of an alien, for which he obtained an employment permit or work permit before the expiry of the work permit will no longer be able to log out of social security, without prior at the Employment Service of Slovenia checked out the work of an alien. At the termination of work, the alien employer will have to return the work permit and proof which shows that employment was terminated and that the alien is aware of this fact.

Furthermore, the article 23 (dealing with special categories of aliens) of the Employment and Work of Aliens Act states that personal work permit can be acquired by applicants for international protection, persons enjoying temporary protection, victims of trafficking (for the period of validity of the residence permit), victims of illegal recruitment and persons with subsidiary protection.

In the first half of June 2009, the Slovenian government adopted a Regulation on restrictions and prohibitions of employment and work of foreigners, which prohibits the issuance of new permits for seasonal work, except for seasonal work in agriculture and forestry. Regulation has brought a ban on seasonal migrant work in the construction and tourism sectors, which largely employ migrants. The regulation also limited the employment of migrants from Kosovo and prohibited the issuance of work permits for foreigners residing in the territory of Kosovo, who do not have a residence permit in Slovenia. The regulation also restricts the employment of migrant women from "third" countries, it prohibits the issuance of employment permits to employers for occupations in the entertainment and artistic

programmes in night clubs where mostly employ women who needs visa for entering the country. The argument was that such measure should reduce the risk of sexual exploitation and human trafficking. Some researchers argued that the effects of such measures are generally the opposite to those intended and that such prohibition does not stop human trafficking. It, on the other hand forces migrant women to take greater risks and are exposed to greater risks and exploitation.

In 2012 the Ministry of Labour, Family and Social Affairs adopted even more focused Regulation of the restrictions and prohibitions of employment and work of foreigners. In accordance with the fourth paragraph of Article 54 of the Employment and Work of Aliens Act, which provides, inter alia, that the Government, in addition to setting the quota of alien workers can restrict the number of self-employed foreigners as well as limit and prohibit the employment and work of aliens by regions areas of activity, businesses and professions, as well as restrict or prohibit the influx of new foreign workers in their entirety or certain regional areas, the Government of the Republic of Slovenia adopted it as a preventive measure due to the increasing number of applications for the issuance of residence permits for employment or work for the citizens of the Dominican Republic in the Republic of Slovenia.

All those regulations (together with the poor situation in the construction sector) dramatically reduced the number of foreigners in Slovenian labour market.

Posted workers

On the practical level, the trade unions representatives are predominantly concerned with the increasing cases of posted workers that are often sent abroad without pay guarantee and thus are in need for assistance after accepting the work in foreign country and after finishing their work.

The newest case (November 2014) was a case of Slovenian construction worker posted to Germany (Berlin). After completed work, he didn't get the payment and was forced to ask Slovenian Free Trade Unions Association for financial (for food and returning home) and logistic assistance. Their advice to him and to all other workers who could find themselves in such distress in Berlin was to contact the Berlin representatives of the German DGB trade union headquarters Bezirk Berlin-Brandenburg. They would help them to file a request for a refund, with provided list of hours worked for the employer. Since it is the construction sector, the union can help, because Germany (unlike Slovenia) has legalized a chain responsibility of companies. This means that the responsibility lies with the company that is first in the chain. Since it is usually large construction company, for which a Slovenian company is only one of many subcontractors, the German trade union can put a pressure on the client and recover the funds for the payment.

Regarding the posted workers, the data available (provided by the trade unions representative) show that in 2012, there were 67 756 forms E101 issued in Slovenia for the posted workers. The majority of issued E101 forms was for the work in Germany (34 016) and Austria (16 607). Also the majority of issued forms were for the work in construction (38 851 from which 18 938 in Germany and 11 687 in Austria), in industry (13 321) and other activities (14 993). In 2013 the number of issued forms (E101 and A1, as a substitute for E101 form) increased to 86 052, with the majority again to Germany (43 082), Austria (23 627), followed by Belgium (4 136), Italy (3 588) and the Netherlands (3 256). The majority of forms were again issued for work in construction (48 193 from which 24 464 in Germany and 15 470 in Austria), industry (15 926) and other activities (21 426). The reason for highlighting the issue of posted workers is numerous violations of the procedure of issuing the A1 (and former E101) form and problems related to working conditions, pay and returning to Slovenia for posted workers. According to the trade unions' representative (from the Association of Free Trade Unions of Slovenia) about the half of all workers with issued forms are potentially in risk of ending as the human trafficking victim. The reason for such high numbers is the fact that the institution (Health Insurance Institute of Slovenia) responsible for issuing the A1 form does not check the employer who is sending posted worker and is asking for the A1 form.

According to the trade unions representatives, the solution to this problem is very simple. The authorities that are issuing A1 form should thoroughly check whether the employer violated the workers' rights in the past or is he/she paying the taxes and social security contributions for workers, and whether is he/she carrying out at least 25% of services in the home country (Slovenia). If the proper selection of employers is made here, the situation would be considerably better.

6.2 Student work

Student work in Slovenia has unique position in Slovenian labour market and it is different than the position of student work in other EU countries. In Slovenia students and pupils occupy a specific labour market segment which is covered by Student Service Agencies that mediate work only to students and pupils that are in need for work or are willing to work beside studying. Due to the smaller tax payments and almost no obligations towards students-workers they are often utilised as substitutes for other flexible labour force. Officially, students should work only in temporary and casual (occasional) jobs, but in reality the duration of such jobs is often prolonged into almost fixed-term jobs. In such cases they represent relatively unfair competition to the rest of the workers.

Definition

Student work is one of the flexible forms of work, typical for young people who are involved in the educational process, but due to financial and other reasons want to participate in the labour market. Because of its almost unlimited flexibility, favourable tax treatment and

almost non-existent labour protection until February 2015, it became a special segment of the labour market which in the short term was suitable for both employers and students.

Student work was introduced in Slovenia in 1959 and could be described as a form of temporary agency work where there are three parties: students and pupils as workers, employers and agencies (student services) acting as mediators between students and employers. Thus, Slovenia has some tradition and experience with the activity of providing workers to a client company, although with specific groups (pupils and students). A special feature of student work is referral, which is the legal basis for work and must be issued by student service before the start of work.

Legal resources

The scope of student work is defined by several acts and regulations. Although the Employment and Insurance Against Unemployment Act expired in 2011 and was replaced by the Labour Market Regulation Act (LMRA), some provisions related to the student work are still applicable until the introduction of the special Act which would regulate student work. It regulates in particular the status of organizations that can provide student work (the student services), the manner of obtaining the concession, the concession contract, the conditions and manner of conducting student work.

Furthermore, the Fiscal Balance Act, amended in December 2014 (ZUJF-C) has specific section on student work, which defines the purpose of the legislation, the amount of sharing and concession fees, collection and disposal of assets from the concession fee in the budgetary fund and the minimum hourly rate for student work.

Provisions on student work are also included in the Employment Relationship Act (ERA-1), which provides students with a limited (minimum) labour protection.

Financial aspects of student work are dependent also on the Income Tax Act, the Health Care and Health Insurance Act and the Pension and Disability Insurance Act.

Positive and negative consequences of the new student work regulation

New student work regulation (ZUJF-C), effective from February 2015, improved somewhat the social protection of those involved in student work. Some of provisions that were introduced with this act are shortly described below.

As the start, it should be noticed that those performing student work do not have any security regarding the duration of work. Their engagement in the labour market is for occasional and temporary purpose and as such, their work could be terminated in any

particular moment without any negative consequences (legitimate reason for termination, severance payment, and notice period) employer.

On the other hand, the new legislation (ERA-1, ZUJF-C, LMRA) increased somewhat the extent of labour and social rights related to the student work.

Thus, the legislation is providing limited minimum labour protection included in the provisions of the ERA-1 on non-discrimination, equal treatment regardless of sex, working time, breaks and rests, special protection of juvenile workers and on liability. The new amendments to the ZUJF (ZUJF-C) introduced another improvement - the minimum hourly rate which sets a minimum hourly wage to 4.5 euros gross (3.8 euro net), which are adjusted with the movement of the average wage.

Furthermore, new legislation attempts to regulate disguised employment relationships more strictly also in the case of student work. Especially in the cases when the duration of student work exceeds the temporary and occasional form, those involved in such work could transform it in permanent employment by reporting it to the Labour Inspectorate.

The new legislation also attempts (through implementation of the 'every job counts' concept) to improve social rights of those performing student work by introducing the pension and disability insurance and health insurance contributions for those performing student work.

The basis for the calculation of pensionable service is payments that students receive on an annual basis for the past year. Pensionable service is tied to the average Slovenian monthly salary: in a transitional period in 2015 one month of pensionable service for student work is recognized for every 54% of the average monthly wage, and then in each year the amount increases by two percentage points, ending in 2018 with 60% of the Slovenian average monthly salary.

Regarding the health insurance, according the new legislation, the contribution for health insurance from student work is just a contribution for an injury at work and occupational diseases, and is complementary to the compulsory health insurance.

On the other hand, students and pupils performing student work are not insured against unemployment.

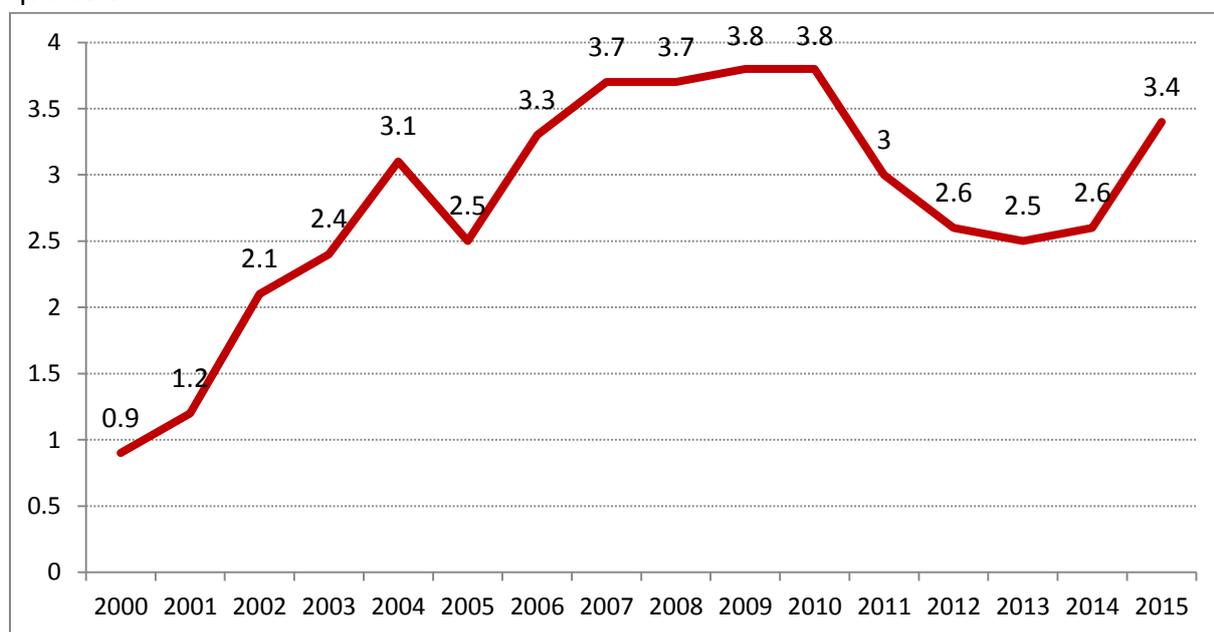
The impact

In an effort reduce segmentation in Slovenian labour market and to regulate the social and economic security of those involved in student work the new legislation increased somewhat the labour costs of student work and made it more expensive for employers.

It was expected that such changes would reduce the scope of student work in the Slovenian labour market. But student work is still one of the cheapest (from employers' perspective) forms of work in Slovenia and as such it was really easy to predict that its share will rise again with the first signs of growth of the Slovenian economy.

And in practice, this happened regardless to the abovementioned changes. As the Chart 6.1 shows, the share of student work among the persons in employment in Slovenia increased again in 2015 after few years of decrease and stagnation. This means that the number of persons (see chart 6.2) performing student work increased more in 2015 than the number of 'persons in employment'⁸. Both charts represent the number (and share) of persons performing student work (not in full time equivalent). Students and pupils performing the student work (after the 1.2.2015) are predominantly paid at the minimum wage (set at 4.5€ per hour) and they are working less (shorter) time than before (as the definition of student work is: occasional and temporary work). This shows that Slovenian employers are quite cautious regarding the current economic development in Slovenia and that they are choosing most flexible (and cheapest) forms of employment/work at the moment.

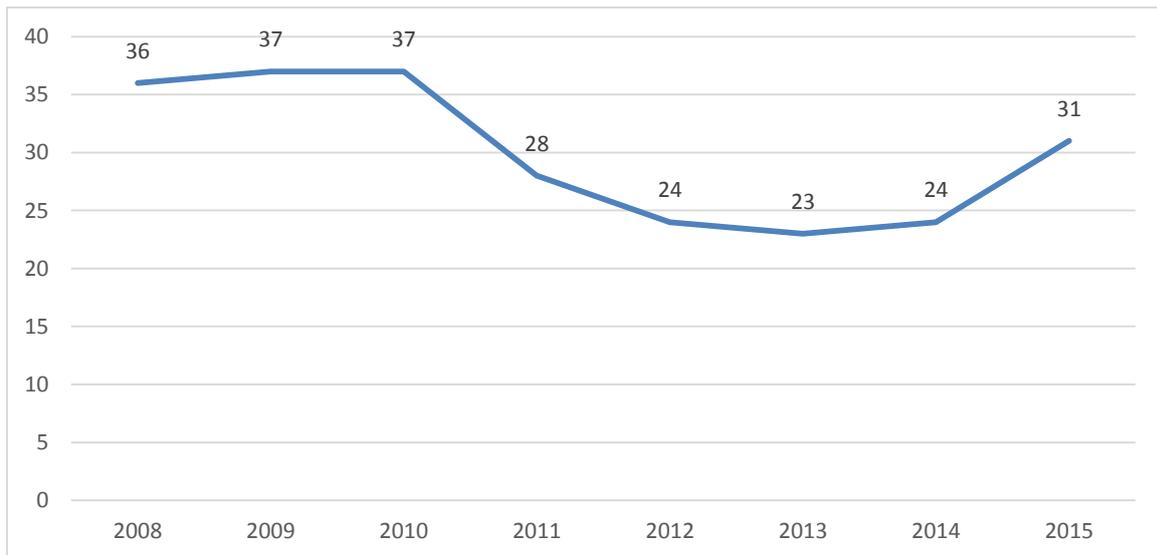
Chart 6.1: Share of student work among persons in employment in Slovenia, 2000-2015, 2nd quarters



Source: SORS, LFS

Chart 6.2: The number of persons performing student work in Slovenia, 2008-2015, 2nd quarters, LFS, (in 1000)

⁸ Persons in employment (or delovno aktivni in Slovenian) is statistical term. The EU LFS defines persons in employment as those aged 15 and over, who, during the reference week, performed some work, even for just one hour per week, for pay, profit or family gain.



Source: SORS, LFS

6.3 Representational gaps

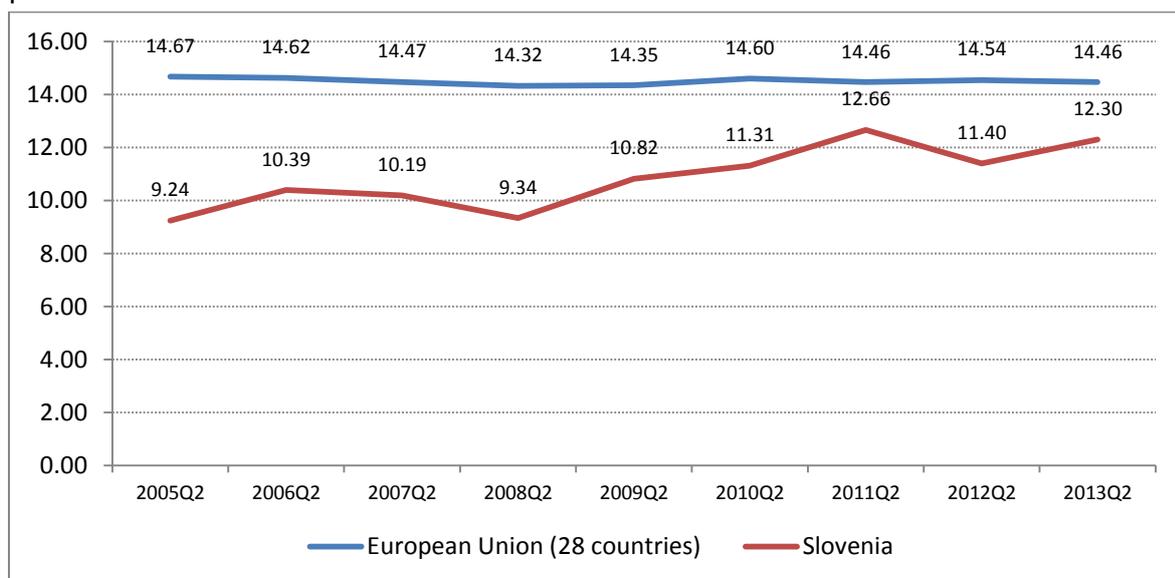
Temporary/agency workers are not unionised and are usually excluded from participation in work councils and collective bargaining.

7 Cost-driven subcontracted work

7.1 Self-employment

In the past 20 years, self-employment has been a relatively important part of Slovenia's labour market – as an important measure of Active Labour Market Policies (ALMP) in times of increasing unemployment as well as offering an (especially true for Slovenia) atypical form of employment in times when there have still been relatively high shares of persons in employment. The proportion of self-employed in Slovenia in the last twenty years is, with minor fluctuations, at a relatively high level (14.1% in 1991, 11.1% in 2001 and 13.3% in 2014). This share puts Slovenia close to the EU average (15.0%) (Eurostat, 2015). Moreover, it should be pointed out that the Slovenian share of self-employed is continuously increasing from the 2005 onwards.

Chart 7.1: Shares of self-employed in active population in EU28 (average) and Slovenia in the period 2005-2013



Source: Eurostat

Self-employment has a dual meaning in Slovenian labour market. On the one hand it offered an exit from the unemployment situation for many unemployed persons and was promoted as a means of creating job vacancies also by active employment policy measures, especially in times of economic crises after 1991 and 2008. This increase is especially noticeable after the beginning of the economic crisis in 2008. This is the period when self-employment was promoted as a part of active labour market policies which should help the unemployed to become again economically active and regain their self-sufficiency. While the grant of € 4500 (under the condition for unemployed persons to remain self-employed for at least two years) helped many unemployed persons to start-up the new activity, trade unions criticized such scheme claiming that the Ministry of Labour, Family, Social Affairs and the Employment

Service of Slovenia are promoting the increase of share of precarious form of employment and are allowing the practice of bogus self-employment mainly in the construction⁹ sector. Bogus self-employment has become, in practice, a means for engaging workers (by forcing them to leave the company and to start private business) in the form of relationships other than employment. Such engagement of former workers is in the interest of employers since it allows them greater flexibility in terms of lower labour costs. On the other hand, the reference on the growing trend and share of bogus self-employment in the Slovenian labour market is only anecdotal, since there are no quantitative data on the actual share of this form of employment.

The subsidy for self-employment terminated in the beginning of 2014 – it was replaced with the new measure called *Podjetno v svet podjetništva* (Enterprising in the business world).

On the other hand, the high proportion of self-employed is characteristic mainly of societies with developed certain sectors, such as agriculture and tourism. The problem that arises from this is that promotion of self-employment has an impact on reducing unemployment in a short term, but at the same time it increases the share of people who have taken greater share of risk for their own social security. This and greater mortality rate of micro-enterprises also means a greater risk of return to unemployment and entering into poverty.

The extent of labour rights

Due to the specific relation between self-employed person/ individual entrepreneur and the client, who buys the product or service, the client is not obliged to provide labour rights to the self-employed person or individual entrepreneur. The limited labour protection can be provided only to the economically dependent entrepreneur, which has the majority of its business with the same client.

The extent of social rights

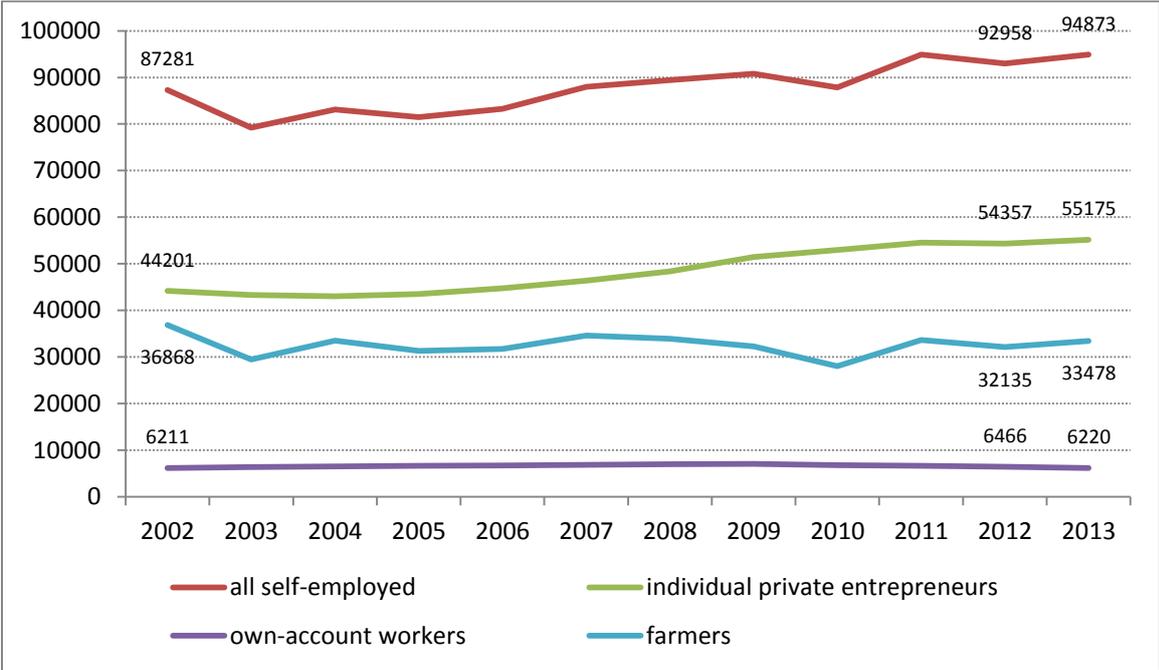
The self-employed person/individual entrepreneur has to provide for its own social security with the payment of social security contributions. By paying contributions for pension and disability insurance, unemployment insurance and parental protection self-employed person obtains in principle the same level of rights as an employed person. On the other hand, in the case of health insurance, the position of self-employed person is significantly worse than those of employees as he/she has guaranteed the rights to health service, reimbursement of travel expenses and allowances of sick leave. But in the case of sick leave the Institute for Health Insurance, would cover only the sick leave after the 31 day of absence onwards. In the case of first 31 days, the self-employed person/individual entrepreneur has to cover the expenses by himself.

⁹ On the other hand, the representative of the Trade union of Slovenian construction workers denied the high shares of bogus self-employment in construction sector.

The self-employed persons/individual entrepreneurs pay social security contributions (pension and disability insurance, health insurance, parental protection insurance and unemployment contributions) from the date of registration until the day of removal from the register.

As in other countries the notion of self-employment in Slovenia covers different groups of persons in employment and covers a wide range of statuses, working conditions and opportunities in the labour market. Official statistics recognise three different statuses (individual private entrepreneurs (mostly craftsmen), farmers and own account workers) which contribute differently to the share of the self-employed in the Slovenian labour market (see Chart 7.2). As Chart 7.2 shows, the highest share of self-employed in Slovenia represents the group of individual private entrepreneurs (55175 in 2013) followed by farmers (33478 in 2013). The number of own account workers is almost negligible (6220 in 2013).

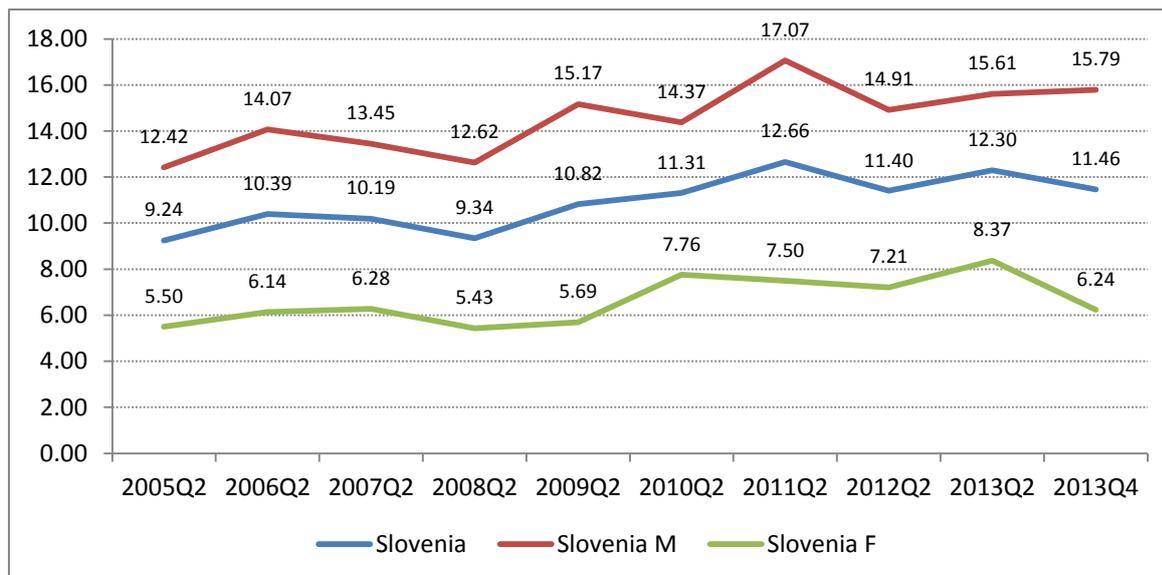
Chart 7.2: Annual averages of self-employed persons in Slovenian labour market according to the registers in 2002-2013 period



Source: ESS 2007, 2013

As expected, the share of self-employed among men (15.79%) is much higher than the share of self-employed among women (6.24%).

Chart 7.3: Shares of self-employed persons by gender, Slovenia, 2005-2013 period, LFS data



Source: Eurostat 2014

7.2 Civil law work contracts

In contrast to the employment contracts, work contracts are much harder to follow. Since the work contract falls under the civil law, there is no obligation from the client to report about the signing the contract. The only relatively reliable source on the number of persons worked under the work contracts is the Tax Administration of the Republic of Slovenia since every person is obliged to report the source and amount of income received during the year.

Table 7.1: Recipients that in 2012 received their income:

	Number
Only through copyright contract	6356
In addition to the copyright contract received other income	49261
Only through work contract	15468
In addition to the work contract received other income	134995

Source: DURS in Štok 2013

From the data in the Table 7.1 it can be deduced that work contracts are predominantly used as person's additional source of income and not as the person's primary activity. It seems that, from the start of 2014, the work under the work contract will be even less profitable for workers. Due to the changes of the legislation, the contributions for social protection paid by workers will increase by 22.4%, meaning that workers will get less net income for the same amount of work performed in the past.

On the other side, as already stated, the work contract is for the client/employer much cheaper version of the contract than employment contract. Until the end of 2013, in the case of work contract, the client/employer contributed for contractor's social security (only for pension insurance) only 8.85% of the gross wage, while in the case of employment contract the employer's contribution (for pension, health, employment and for injuries on the job insurances and parental care) was 15.98% of the gross wage. From the January the first 2014 the client's contribution increased for 0.53% (insurance for injuries on the job). Regardless to that increase the work contract is still much cheaper and some employers are trying to benefit from the usage of the work contract even when employment contract is prescribed. This is especially common practice in construction and health care. Thus, according to the Abrahamsberg's (2011, 177) example, when the medical institutions negotiate with the doctor, who works at the University Medical Centre, for performing particular job - medical services in his/her free time, it is a negotiation about the (part-time) employment and not work contract. Civil work contracts, often encountered in health care, in its essence are not work contracts. "Even worse, such practice has found support for such behaviour in the executive act, in the Regulation on criteria for work contracts or other civil law contracts for the provision of health services in the network of public health services. This Regulation is of course contrary to the Obligations Code and the Employment Relationship Act." (Abrahamsberg 2011, 177)

According to the law, a worker must not perform work under a work contract, if there are elements of the employment relationship and if it meets the prescribed conditions for carrying out the work under the employment contract. Contracting under the civil law (work contract) contrary to the provisions of the Employment Relationship Act is treated as a misdemeanour. In 2012 the Labour Inspectorate detected 118 such cases, in 2013 the number increased to 207 cases. (Repovž 2014)

The Fiscal Balance Act (ZUJF), adopted in 2012, changed the employment situation in the public sector. It provides that employment in the public sector is only allowed under the terms of ZUJF, regardless of the applicable standards and norms, and irrespective of the staffing plans, work programs, business and financial plans of each public sector entity. It also somewhat reversed the trends of increasing share of work contracts in public sector by temporarily restricting (article 184) the conclusion of copyright and work contracts in public sector except in the particularly defined cases.

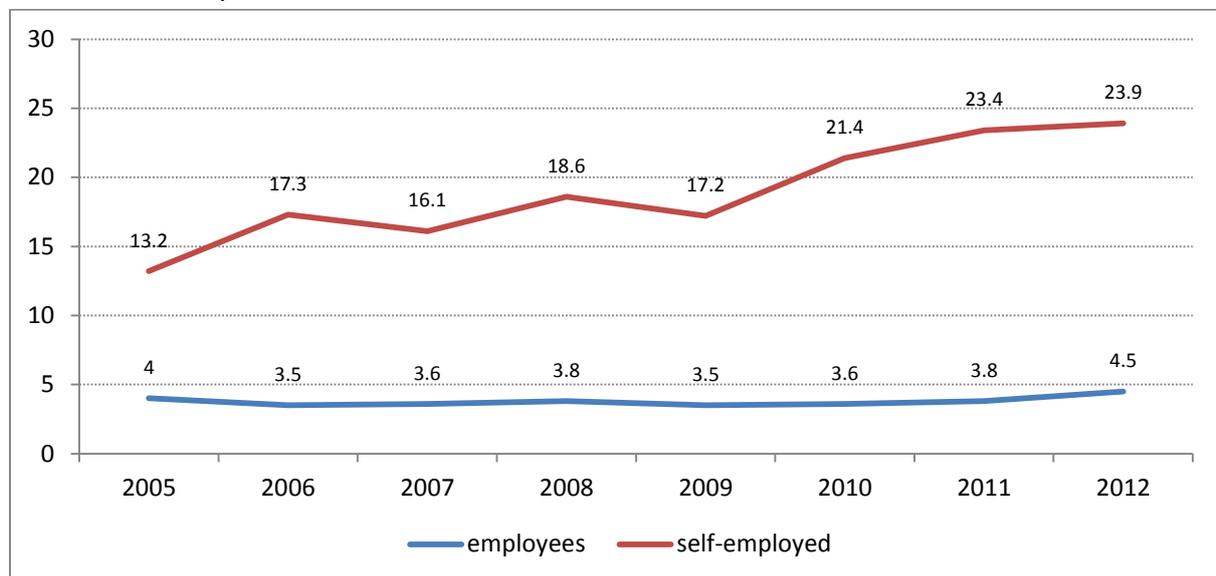
7.3 Assessment of the impact of atypical types of work contract on the Slovenian labour market

The impact of the atypical types of work contracts on the Slovenian labour market is of course twofold.

On the one side, the increase of the share of atypical work contracts is the expected adaptation of the Slovenian labour market to the global trends and to the needed competitiveness of the Slovenian companies. On the micro level (companies) it has a positive impact on the employers' possibility to be flexible and reduce (labour) costs related to the production of goods or services.

On the other side, while there is a small part of workforce who benefits from the atypical work contracts. For the majority of them there are more negative consequences which are mostly related to lower wages and lower social security. Both lead to increase of at-risk-of-poverty rates for those groups of working population that are more involved in such employment/work contracts.

Chart 7.4: At-risk-of-poverty rates for employees and self-employed in the period 2005-12 in Slovenia, 16-64 years old



Source: SORS

As Chart 7.4 shows, there is noticeable increase in the at-risk-of-poverty rate for self-employed persons after the beginning of the economic crisis. This also corresponds with the increased activity of the Employment Service of Slovenia offering subsidies to unemployed persons for becoming self-employed.

When analysing the segmentation in the labour market related to the atypical employment/work contracts, we should be aware of two different aspects of segmentation that are especially important.

Firstly, the segmentation should occur in the case when there are more or less reduced possibilities for transition from one to another new form/contract of employment. This means that persons working under one contract are stuck in it without possibility to change their labour market position.

And secondly, there are negative consequences/outcomes of the reduced transition possibilities for those already in atypical contracts. Following the above presented case of increasing at-risk-of-poverty rates for self-employed and presumed deterioration of the income gains (and with that reduced material security) from the work contracts, it can be concluded that atypical employment/work contracts are associated with higher social insecurity of those working under such contracts.

7.4 In-work regulatory gaps

Eligibility gaps

The position of self-employed is especially difficult (for them also applies compulsory unemployment insurance, but they receive very low UB rates due to the low contributions) and those with other forms of work which are not registered at the Employment Service of Slovenia and do not know their rights (for example migrant workers).

7.5 Representation gaps

Self-employed and workers working under the civil law contracts are not unionised and have very little power in negotiations.

7.6 Social protection and integration gaps

Increasing at-the-risk of poverty rate for various forms of flexible employment, especially self-employed.

PART TWO: CASE STUDIES OF SOCIAL DIALOGUE

The three cases analysed in the second phase of this research project showed that there are different situations in which particular group, occupation or profession finds itself and different approaches towards solving the situation – more or less through the social dialogue. Thus, journalists are taking more individualistic approach, retail workers are taking more classic path – social dialogue on the sectoral level, while youth is divided to more individualistic majority and smaller part that is attempting to take more inclusive, proactive role by addressing the precarity issues on national level as, more or less, equal partner in the social dialogue.

Case 1: Youth as one of the most flexible and vulnerable groups in Slovenia

1.1 Overall situation

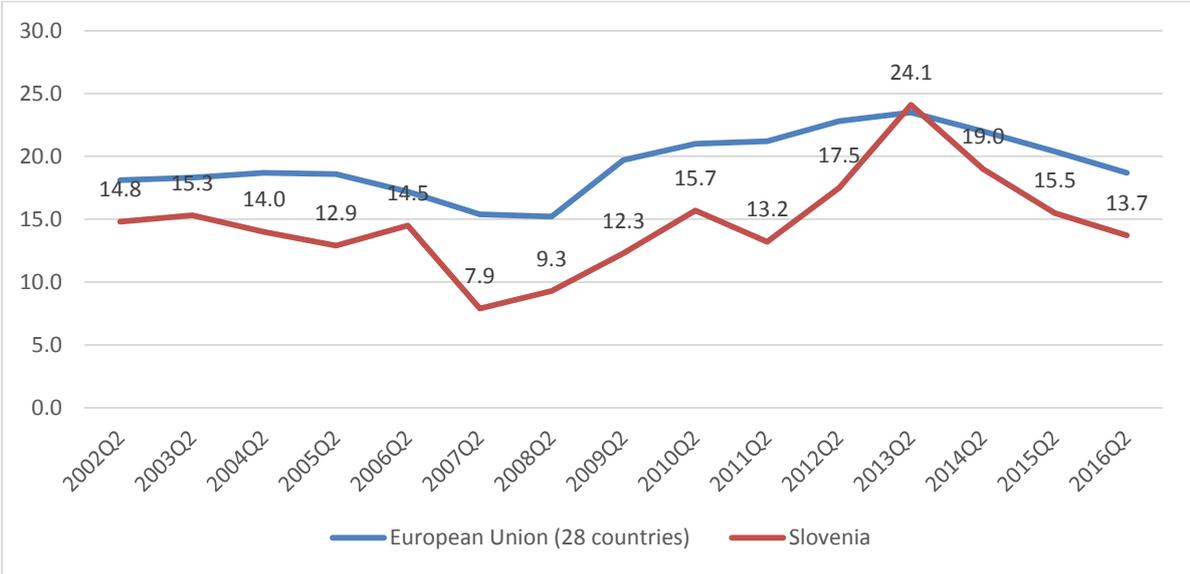
The situation of young people in the labour market (especially in events such as the speed of transitions from education to employment, type of employment and employment contracts, frequency and duration of unemployment) is affected by many factors, the effects of which are interwoven. Among the general factors primarily economic trends are affecting higher or lower demand for labour and a faster or slower rate of absorption of young people in employment. Furthermore, the economic situation at the local and regional labour markets and demographic situation (size of the cohort of young people who are coming to the labour market, aging of the economically active population, the attractiveness of the young labour force for employers) are also determining the status of young people. Educational systems and a more or less systematic transition from education to employment through proper counselling support system (apprenticeship or practical work/training in real work situations, project work, practical training in companies and various forms of connecting with potential employers during schooling/studying, fast and efficient career guidance and counselling for young people) can have a significant impact on the speed of integration of young people into employment. Additionally, employment legal regulation, which lays down the conditions of employment and dismissal (types of contracts, rights and duties, allowed forms of youth work, etc.) is also very important for the situation of young people in the labour market by allowing more or less flexibility in employment. Employment policies dedicated to young people are also important, not just employment measures, aimed at first-time jobseekers or unemployed young people, but also as the way of improving the working conditions for already employed youth. Important are also attitudes of employers towards youth employment in terms of social responsibility to provide opportunities for young people and the attitudes of the trade unions, which may draw public attention to the problem of youth

employment and their involvement in social negotiations and agreements affecting the status of young people in the Slovenian labour market.

Slovenian youth labour market shares the fate of the entire Slovenian labour market (particularly as regards the impact of economic trends, trends in employment and unemployment), but, on the other hand, has some important features, that have impact on the situation of young people in the labour market and in society in general. Their greater flexibility regarding employment and work contracts (fixed-term and part-time, various forms of student work, and temporary or occasional work through civil work contracts), affects the frequency of transitions between jobs and the incidence of unemployment, which significantly affects their full economic and social independence. Young people are specific labour force, which is characterized by lack of work history and experience. At the same time they are often carriers of new skills from the educational process, and a number of social (and technical) skills and competencies.

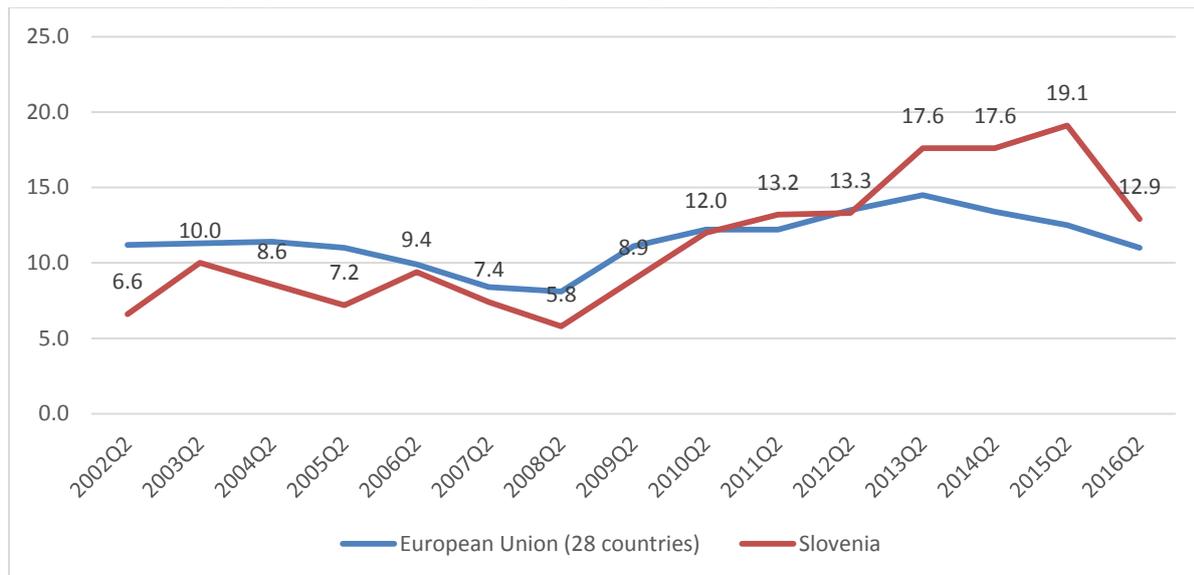
Regardless to that, current economic crisis has negative effects on the ability of the Slovenian youth to find and retain jobs, which is reflected in the increasing unemployment rates for both subgroups: 15-24 years old (chart 1.1) and especially for 25-29 years old (chart 1.2), which increased by almost four times in relation to the 2008 levels and surpassed EU averages.

Chart 1.1: Unemployment rates for youth (15-24 years old), Slovenia and EU28, LFS data



Source: Eurostat 2016

Chart 1.2: Unemployment rates for youth (25-29 years old), Slovenia and EU28, LFS data



Source: Eurostat 2016

Since the second subgroup (25-29 years old) contains predominantly university graduates, it is obvious that there is a quite important issue in Slovenian labour market regarding giving the job opportunity for this subpopulation of Slovenian youth.

1.2 Different statuses and one common feature - precarity

1.2.1 Social protection gap

As already presented in the part one of this report, one of the most important challenges for Slovenian youth (beside increasing youth unemployment, especially among university graduates) is increasing flexibility of Slovenian labour market, and with that related over representativeness of youth in flexible forms of work and employment. This over representativeness of youth could be viewed as a specific form of segmentation (by age), since young people (who are also more likely to face its negative consequences) are predominantly employed in flexible forms of work and employment, while the older workers have (still) predominantly employment contracts for permanent (indefinite) employment, which offer relatively high security.

According to the representative of the Movement for decent work and welfare society, different types of employment contracts offer different levels of standards. "Older workers certainly see standard employment relationship as a regular working relationship, which is defined in the Employment Relationship Act (ERA), with classic workers' rights - holiday, sick leave, compensation for travel, meals and the rest. On the other hand, the standard for young people, if we take Slovenia's case, is precarious employment." (Funkl 2015) Thus, such generational gap in the access to the regular, permanent employment, is producing also

social protection gap which is manifested in higher in-work at risk of poverty rates (see chart 2.6 in the first part of this report) for those in flexible forms of work and employment. In some cases state institutions (ministries) also contributed to the widening of this gap by allowing misuses of labour regulation or by employing students for jobs that are not temporary or occasional in nature and that have characteristics of regular employment. “Another problem that I find with regard to standards is what I mentioned earlier – the Ministries are seeking byways of this standard.”(Funkl 2015) Such differences in labour standards and social protection are potentially dangerous issues which sometimes initiate conflicts between various groups of employees and workers. “To me this seems very dangerous idea, which often – politicians, sometimes the media, and sometimes even the economy – are trying to put forward that these groups start to fight each other... It is logical that this inter-generational conflict, which is created by the unjust use of legislation, is undermining solidarity in the long run.” (Funkl 2015)

Regardless to advantages that young people have, the current economic situation and employers’ demand transformed predominantly into flexible forms of employment and work are making youth’s transition from education to work and its life in such world more difficult. According to the interviews made, Slovenian youth feels insecure and does not see clear future in Slovenian society. “The main problem is that we just need to create a future for young people to be able to live normally. I would say now this: it is necessary to ensure that there is sufficient social security, that there is the possibility for an internship and that people are normally paid. The fact is that we all are in a stage when we need to move away from home, to get our own apartment. And we would like to have our own families. It is essential to establish such climate, in which it will be even possible to have a normal 40-hour working week. And that the normal 40-hour working week is well paid, so that you can cover the normal living costs and that you can also think about children and a future.” (Belčič 2016)

The lack of jobs in Slovenian labour market is forcing Slovenian youth to try to find other solutions. One of such solutions is self-employment or becoming freelancer. For many of them such solution is only an attempt to survive since they, beside new knowledge, do not have nor financial nor social capital to make their ideas through and to be successful. “As I see people most of them are starting as freelancers. At the beginning they like it, then they realise - after a year or two - they are totally burnt-out. And that they never know whether they will get paid, just as it should be, or will not be paid at all, or if they will have to work 8 hours a day or 14 hours a day. This instability is problematic.” (Belčič 2016)

Many of Slovenian young people would like to have regular standard form of employment with all benefits and social security included. On the other hand they are also realistic in sense that they are aware of the current economic situation and global trends. “I would say that entire group up to 30 years of age is at risk. Also because of these freelancers practices. It is hard. I also see my colleagues in other fields. It is difficult to get a job anywhere,

especially a job with a normal payment and with an opportunity to create a normal future.” (Belčič 2016)

They would accept greater flexibility at the beginning of their careers if they would know that this would be only temporary situation which could be upgraded in the relatively near future. As one of the interviewed students said: “We live in an environment where our attention is frequently drawn to the fact that the precarious work is part of our present and of our future. And we are aware of that. But still, we would prefer this situation to be shorter as possible. We would prefer greater social security.”(Students 2016)

Thus, many of young people are prolonging their studies at the university level, waiting for better times and better opportunity in the labour market in the future, because they are afraid of the transition to the labour market, because they do not know what kind of job they will get, if any. At the same time, they are taking advantage of the student work (reserved only for students and pupils). Thus they are forced to postpone future planning and structuring of the private and professional life. “Yes, studies are anyway constantly prolonged, because you have to work during the studies. Many of my colleagues said that they do not longer know whether they went to Ljubljana to study or to work. As soon as you come to Ljubljana to study, you have work to be able to live in Ljubljana and then you find yourself in a vicious circle.” (Belčič 2016)

Moreover, some students have to work not only to provide means for their own living, but have to think to their families too. “The most bizarre story that is happening in recent years is in fact that students work to send money home to their parents. This is the biggest disaster of all.” (Belčič 2016)

For those already involved in student work, there is another disappointment – they are sometimes earning more as waitresses or waiters than in their future professions. And those lucky enough to have job already in Slovenia are reporting different forms of exploitation (low wages, extensive hours, bad working conditions) and with that related health problems and burnout.

1.2.2 Enforcement gap

In many cases student work (as one of the cheapest form of work) is exploited by the employers. Another form of work is, since the beginning of the economic crisis in 2008, also becoming very popular, especially in the public sector. This form is unpaid or voluntary internships. The internship or traineeship in Slovenia is not compulsory, but in some branches or even by professors at the faculties where some students are performing their obligatory internships (for example in architecture), especially in public sector it is used as

the preparation of new young employees for particular jobs. Internships are regulated by Employment Relationships Act (ERA-1) and Civil Servants Act which provides similar provisions as ERA-1. Those acts also determine the level of payment for the internship, but ERA-1 also allows the existence of voluntary internship in accordance with the special Act (article 124, ERA-1).

“Unpaid internships, well... The problem with these traditional occupations is that the economic situation has changed a lot. Sometimes it was much more acceptable to have internship because this lasted about a month and then people normally got an employment in the company. It was more like a trial period. Today, it happens a lot that someone is recruited as a trainee, but he/she is paid a little or nothing.” (Belčič 2016) And there is an issue of who is capable to get through the unpaid internship.

“We had a colleague who worked for one very famous architect. She has not been paid for several months respectively and finally, she was paid only a company trip. She worked in bad working conditions, has not been provided equipment for the work. She had to have her own computer. In fact, she had to upgrade her computer just to have her work done, so she had only expenses in this firm. She worked for 12-13 hours a day and then on the weekends and in the evenings she worked as waitress in the bar so she could survive. Such stories happen. Working by day for free and then in the evening serving in various pubs, restaurants. This is very significant. The problem with this is that at some point such internships and practices altogether are becoming a luxury. For those who can afford it.”(Belčič 2016)

And many of young people cannot afford such practices. Usually such internships were advocated as an opportunity to get new experiences and knowledge in the field that one will work in the future. In the second half of the 2000's and especially after the beginning of the economic crisis, the voluntary traineeship became relatively widely used in various institutions of public sector (including many Ministries). Thus, according the report provided in 2015, there were more than 800 voluntary trainees in 2014 in public sector. The great majority (almost 600) of them was engaged in education (in primary and secondary schools). Such increase in voluntary traineeship (many of those engaged in such form of traineeship had covered only travel expenses or not paid at all) was strongly criticized by trade unions, youth organisations and NGO's. Following such critique, at the end of 2014 the Ministry of Labour, Family, Social Affairs and Equal opportunity issued a recommendation to all Ministries not to use voluntary internship any more. The use of voluntary internships was reduced, but it still remains an issue which should be resolved as soon as possible.

All those issues are well known also to the Labour Inspectorate of RS, but due to grey areas in the labour legislation, not clearly divided roles in the past between different institutions that should monitor the implementation of legislation and its own understaffing, there was no decisive reaction to such violations. “Violations are a major problem, there is small number of labour inspectors, and they have very little control over, and also it is the fact that

the legislation has to be modified. For example, regarding the internships in those occupations where internship is required, they are covered in five different laws. It is not quite clear how the internship should be done. And the labour legislation. There is no clear recommendations on how the internship should be performed. If I understand correctly, in the past internship or apprenticeship was paid 70% of normal salary. That would be the best. Student organization of Slovenia (ŠOS) also discussed the issue of unpaid internships. Whether to propose that it should be all paid internships. But then the problem arises that there would be a lesser number of internships, because you know what is the situation in public administration. There is no more money. If they do not provide another source of funding, there will be a problem.” (Belčič 2016)

Another area where young people are frequently exploited is freelancing. Since it is very difficult to find a regular job, many of well-educated young people are taking project work for some companies (for example in architecture). Often they are invited to make a proposal for the project, then they spend many hours on this proposal and afterwards the company says that they may use or not the proposed idea, but they will not pay it. “Dumping is also very present. We've seen already the ads that they are looking for someone who will project the abnormal amounts of material. For example, an ad for projecting twins, plus a few private houses for € 300. Indeed, such an abnormal price. For € 300 a normal logo designer will not do a logo, let alone an architect to sketch the whole house for that kind of money.” (Belčič 2016)

1.2.3 Representation gap

As all other precarious workers, young people in Slovenia did not have (until the establishment of the trade union Mladi plus) much opportunity for collective representation of their labour rights. Their rights were (and still are) represented only through the student organizations which were not usually treated as the equal partner in the negotiations related to the labour rights. The existing trade unions were (and still are) in principle prepared to defend the rights of precarious workers as well, but in the reality, the interests of trade unions' core members (those with regular, permanent employment) often collide with the interests of precarious workers.

Due to this lack of representation of their labour rights and due to the difficulties regarding finding a job and the overall conditions in which young people find themselves in the Slovenian labour market, some of them are thinking of leaving Slovenia in order to find more secure and better jobs. Thus Slovenia is facing another issue – issue of losing young, educated people. “The problem is that then those people do not return. Because there is no perspective in Slovenia. Once my colleague told me that Slovenia is an ideal country until you finish studying (you have health insurance, student work and you study for free), then it's time for you to leave.”(Belčič 2016)

This brain-drain is becoming the important issue not only for those young people that are thinking of leaving Slovenia, but also for the Slovenian society as well. “The biggest problem in Slovenia is that we educate here insanely good workforce, because the school system is actually good, but the Slovenian economy has no profit from it, because there is no opportunity for young people to use this knowledge in practice.” (Belčič 2016)

The majority of young people do not have any response to such circumstances. They are resigned, pragmatic and usually use short term survival strategies – taking any job available without any resistance and not thinking about any collective resistance strategies.

1.3 Solution – new forms of organization of youth and their role in social dialogue

On the other hand, there is much smaller group of proactive young people that are trying to address precarity issues through collective action on the national level. Three associations appeared in the recent period (from 2010 onwards), established by young people that are addressing abovementioned issues: Movement for Decent Work and Welfare Society, Trade Union Mladi plus (Youth Plus) and Trade Union of Precarious Workers (established on 7.10.2016).

Both older associations (Movement for Decent Work and Welfare Society and Trade Union Mladi plus) were established as a concrete opposition to the proposed introduction of small work in Slovenian labour market in 2011 - as Slovenian version of minijobs. This proposal intended to extend the use of student work (as occasional and temporary work of pupils and students) on some additional vulnerable groups (unemployed and pensioners). Both groups of opposition (trade unions and young people) were afraid that the introduction of such act would enable further expansion of precarious work in Slovenian labour market, which would consequently, affect the social security of those working in such forms of employment.

Movement for Decent Work and Welfare Society

Movement for decent work and welfare society was established in 2011. The issue of precarisation was detected as the common problem related to modern Slovenian and global society and especially related to the issues that they found as important as well: higher education, flexibilisation, and workers’ rights. In 2015 the Movement initiated the establishment of the governmental project group for precarious forms of work. In this governmental project group are gathered the representatives of different ministries, representatives of Movement for decent work and welfare society, trade union Mladi plus, migrant office, journalists, and workers in culture. In 2013 the Movement also organised now annual national conference named Novodobno suženjstvo/ prekarne oblike na trgu dela (New age slavery/ precarious forms in the labour market). “We are more organised as

activists than through membership. Prekariat as such, cannot afford to pay some regular membership fees, as in the case of the regular union.”(Funkl 2015)

The Movement has relatively small number of members (around 100) and has many more sympathizers. Its activities are organized mostly through the social media: twitter, Facebook, YouTube, web pages and e-mail. The Movement is financed by memberships, donations and tenders. On October 2016, the most active members of the Movement also established new trade union of precarious workers. “A long time ago we detected the problem of our movement: first, it is very difficult to get to the decision makers; second, it is difficult to offer members a legal protection, especially in cases when someone who is economically dependent person decides to go through the procedure to get regular employment, which belongs to him by law. These are the two main things: legal representation and advocacy in terms of dialogue with decision-makers.” (Funkl 2015) In order to solve those problems and in order to ensure that the new association would in some way give identification to precarious workers they established the Trade union of precarious workers. “It seemed essential to us. To make an organization, which will identify and connect these people. And the third thing: we perceive the networking and the action on the ground quite differently than traditional union, and this is where we have some problems in coordination with the Association of Free Trade unions of Slovenia (ZSSS).” (Funkl 2015) “Our understanding of the trade union’s role is in a way that people should be proactive in their environment.” (Funkl 2015)

On the other hand, some are still sceptical about the new trade union of precarious workers. “It will be very difficult for the union of precarious workers to operate in Slovenia because of the existence of many partial interests. All debates are then usually reduced to social contributions and social security and then you say, wait a minute, they are important, because I’m paying them a well. If you want to do this at the national level, it is quite complicated. I’m a little sceptical of this union of precarious workers also because it should be in our interest only if its aim is self-abolition.” (Leban Trojar 2015) Self-abolition is seen as a final stage of the abolishment of precarious work. “I see the trade union of precarious workers as an operational group of people. The same goes for the trade union Mladi plus. I hope that both have the same goal – not a reduction of precarity, but the abolition of it. Precarious work will be solved when we act coordinated. Now, each of us howls in its own way, each of us is trying in its own way and yes, sometimes you think you are doing well, and do damage... In this sense, trade union of precarious workers could be good thing.” (Leban Trojar 2015)

She is aware of the necessity to have the union of precarious workers, for those who do not belong anywhere. “This kind of organization should be formalized to push things forward. But we should not forget the industry, branches and collective agreements at these two levels.”(Leban Trojar 2015)

Trade union Mladi plus (Youth plus)

The Trade union Mladi plus was established in July 2011. The purpose of its establishment was joint opposition with the trade unions against the already mentioned proposal. But it was also the opportunity for some young activists to consider some other important issues such as: the status of youth in Slovenian society, workers' rights, and decent work. At the beginning it was informal gathering and establishment of the trade union was actually the experiment to see whether there is a critical mass for establishing it. They didn't know whom to address – who are young people? “At the start it was big experiment, because we did not know exactly who we address. We were a little sceptical. We wanted to act integrative. We wanted to avoid making divisions in the trade union.” (Leban Trojar 2015) They then defined their potential population as pupils, students and unemployed youth. “The idea was - in essence, to address those groups that are not yet included in trade unions. To be a kind of incubator for trade union, to try different things of how to integrate young people and on the other hand - it was our wish already in the beginning – also to reform the trade unions - these old trade unions with whom we had a lot of negative experiences, especially when we discovered how hard it is to present them some issues related to youth.” (Leban Trojar 2015) According to the representative of the Trade union Mladi plus, they had difficulties at the beginning to attract young people who were very sceptical of the name (especially of the 'trade union' part), but they have succeeded to change its trade unionistic image through the activities in social media and by choosing different, more innovative approaches.

Now, Mladi plus trade union is the part of the Confederation of trade unions named Association of Free Trade unions of Slovenia (ZSSS). The trade union Mladi plus represents students, pupils and youth unemployed – all under the age of 35 – and deals with topics such as youth unemployment, youth housing, career counselling and law counselling for their members. At the beginning they had only 30 members, but the number of members grew, in 2012 they had already 600 and in 2016 around 2000 members.

According to the Mladi plus representative, the establishment of the trade union was also important since they could communicate directly to the state as a counterpart. “The actual content of the work compels us to take a state as a counterpart. Definitely we are included in the social dialogue, because it is necessary. We must say that ZSSS gave us a very nice place in this story. So, wherever and whenever there are topics that affect young people and which should be considered by the ZSSS, there is the place for us. We negotiate with the state and with the employers. We have equal position in this story. Indeed, when our theme arrives Dušan (secretary general of the ZSSS) withdraws and Zala takes the floor. And this happens in all kinds of fights. This is my experience with Chamber of Craft and the Chamber of Commerce. These internships have been such a topic. Internships are happening in the private sector and employers are on the other side. In this case, we had the largest fight with the Bar Association, which represented those employers in this segment.” (Leban Trojar 2015)

As in the case of the Movement for decent work and welfare society, the trade union Mladi plus is also taking innovative approaches, but they are aware that “it would probably be sensible to eliminate/reduce precarity through the work of sectoral trade unions.” (Leban Trojar 2015) Mladi plus is thus also active in talking about precarious forms of work in various local and regional trade union departments, rising the awareness of the issues related to the precarious work among workers and also employers. For example, in metal and rubber industry there are attempts to limit the number of precarious workers on the factory level, but there is only one collective agreement on the factory level that is already set such standards (10%).

On the other hand, has still problems in reaching the young population and spreading the awareness about the negative consequences of the precarious work. According to the representative of Mladi plus “young people are socialized in precarity. For them it is all the work. They do not understand the concept of a contract for an indefinite period of time or when they heard about it, they are connecting it with something which is for their mother or father.” (Leban Trojar 2015)

But things are slowly changing. Despite the majority of members who are relatively passive, there is growing number of young people that are more and more aware of the situation and are very critical about it. To organize them, the trade union Mladi plus uses the same strategies and social media as the Movement for decent work and welfare society.

The trade union Mladi plus is participating in social dialogue on the national level and as a member of ZSSS is actively defending various groups of precarious young workers in different sectors. One of such actions was about internships. “We went to work in the field. To the faculty and it was very interesting response. We have found out that students are quite unfamiliar with internships. The biggest problem was at the Faculty of Education, when in fact students did not know what to expect, what are the conditions for accession to the professional examination and we thought about how to get closer to young people and inform them. And what we have done, we made a manifest – because it seemed fine to young people that they would produce a manifest, in which they demanded paid internship and decent work.” (Leban Trojar 2015) After that, they went to all other faculties and educated students about internships in the same way.

Through such actions and collaboration with student organizations and NGO’s, the trade union Mladi plus is getting closer to its target population. Furthermore, they are also active internationally, mostly through the ETUC network.

Communication and sharing information is very important. “The only positive thing for me in this matter is that this issue is opening for debate, for communication. And yes, young people are coming now and say no, this is not ok. This, what is happening to me - I will not accept it.” (Leban Trojar 2015)

Case 2: Journalists and other media workers at the RTV Slovenia

2.1 Overall situation in the Slovenian journalism

The area of Slovenian media is not exempted from the overall processes of precarization of Slovenian labour market. As in the other parts of the Slovenian labour market there are several factors that are affecting the field of journalism: privatization and commercialization of the media from the beginning of the 21. century, continuing pressures on labour costs, technological changes and with that related changes in ways the work is done, structural changes, and the processes that affect the entire economy (economic crisis).

The case of Slovenian journalists is probably most visible, but there are many other occupations (editors, cameramen, directors etc.) in the field that are affected as well. The main issue regarding those occupations and professions is changes in the employment contracts they receive and with that related changes in their social security. Changes in the ownership structure of Slovenian media have brought different power structure in those media and with that higher pressure on managers to increase production and lower the labour costs. Since the labour rights for regularly employed are collectively and individually relatively better regulated than for those in civil work contracts, there is a constant pressure on managers to reduce the number of regularly employed and increase the number of freelancers that are employed under civil work contracts (copyright contracts). In Slovenia this means among other things that there is already a third (estimation) of journalists who practice their profession without a contract on regular employment and without provided basic legal and social security. This has of course several implications for individuals that are found in such contracts, for the profession itself and for the quality of final products and services they are offering.

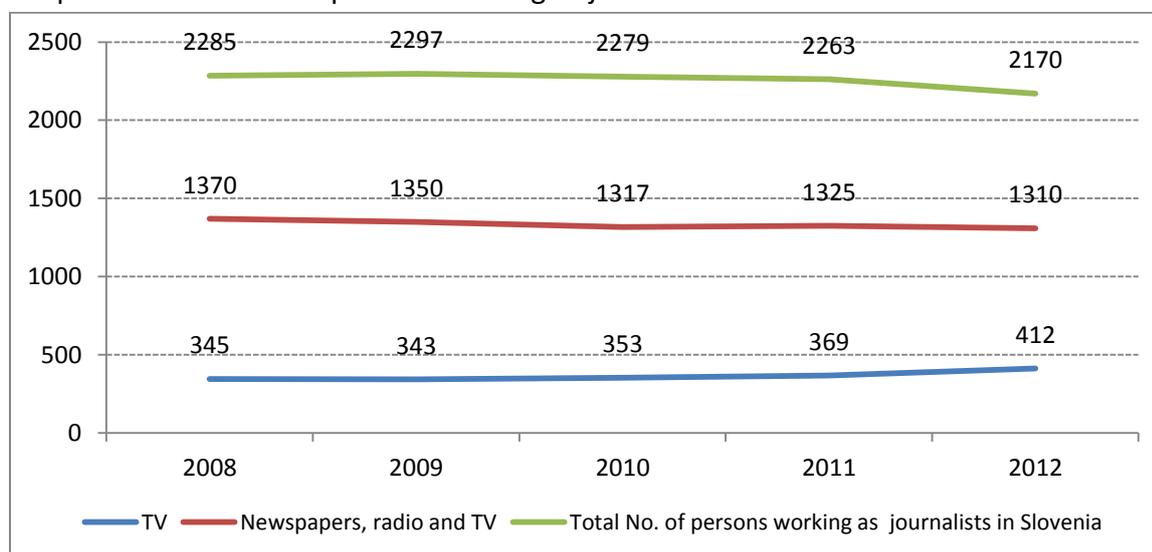
For the majority of those freelancers their employment or work contract is not achieved voluntarily as they would prefer more stable and regular form of employment with higher social security. For some trade unions representatives this growing share of freelancers is actually a sign of growing number of "forcedlancers" that cannot choose voluntarily their type of employment, but were forced into it.

On the other hand, this growing number of freelancers and independent journalists are still quite passive workforce – there is only small share of them that is actually trying to organize collective action to achieve better working conditions, higher social security or even changes of their work/employment contracts.

In this article we will present the situation in which journalists are in the whole Slovenian media space and in one of the most important Slovenian media houses – RTV Slovenia.

While the number of persons working as journalists (in different forms and contracts) is decreasing in the recent period (see Graph 1), the number of persons working as journalists on television as medium is increasing.

Graph 1: The number of persons working as journalists in selected activities



Source: Ministry of Culture 2014, 12

2.2 Gaps related to the journalists and other media workers

2.1.1 Social protection gap

The existence of different types of employment and work contracts in Slovenian media means that there are also important differences in the social protection that particular group of employees actually receives from the particular contract.

1. Regularly employed journalists in different media are employed either for a fixed or indefinite (permanent) duration. The contract provides for a permanent amount of monthly salary, social security providing unemployment, health and pension insurance, the amount of the monthly allowance for travel expenses, meals, use of mobile phones and similar bonuses.
2. At the opposite site are placed part-time or freelance journalists that are connected with the media house on the basis of civil law contracts, and also through student referrals (in the case of younger journalists). Journalists with this status are at the mercy of their employer as a civil law contract mostly covers only general provisions (on television or online media contracts are dictated by the rules on audiovisual works which include some kind of paraphrasing main articles of the Press Code, for example protection of minors, a

ban on hybrid texts and advertising within journalistic works, copyright and material rights ...) and the method of payment and the notice period, which in most cases is extremely short. Part-time journalists, therefore, do not enjoy much of social security from the employer. They have to pay contributions for their own unemployment, health, pension and disability insurance.

3. The third group of journalists are independent journalists, whose status is much closer to part-time journalists than the regularly employed journalists, as they are usually employed by civil law contracts of the same type. The distinction is that they must also pay social security contributions, and they can in principle, as freelancers, cooperate with a variety of media and thus earn more. Journalists with this status should have more freedom because they may decide about their method of work, but it often happens that an oral agreement with the editor allows only work for one media. This was also accentuated by the representative of Section of independent and freelance journalists of RTV Slovenia, who said: "In Slovenia there are no real freelance journalists because everyone claims they own you – usually they demand that you sign competition clause and with that you are banned from working for other media."

For acquiring the status of independent journalist, a person should enter the register of independent journalists managed by the Ministry of Culture. In January 2016 there were 217 entries in the register.(Ministry of Culture 2016)

The advantages of the status of independent journalists in Slovenian media space are:

- social, pension and disability insurance
- 15 percent special personal tax relief from income tax
- concluded the employment relationship
- in case he/she opts for normalized expenses, it is not necessary to collect bills for costs (ie. in the case of a fixed annual limit of earning money)
- can work with several customers and can work at home

Health insurance for independent journalists is compulsory and starts with the entry in the register of independent journalists and ends on the day of deletion from that register. By acquiring the status of an independent journalist they have both a right and duty to be logged in compulsory health insurance as well as disability and pension insurance. By applying for insurance an independent journalist can also ensure the members of his family.

The weaknesses of the status of an independent journalist are:

- payment of compulsory contributions, while the Tax Administration in the event of non-payment can quickly block the account. This is especially noted by the representative of Section of independent and freelance journalists of RTV Slovenia. Any late payment from the employer (which is not so unusual) could cause insolvency and blocked account.

According to the representative one third of those in the register have blocked accounts due to insolvency.

- as for a freelance journalist the media company can deny protection in the event of prosecution because of an article or the contribution
- independent journalists must keep tax records
- with the status are related difficulties of getting bank loans
- must pay accounting and tax on profit.

On the other hand, such weaknesses are accentuated by the fact that the Ministry does not monitor the statuses and actual conditions in which the independent journalists live after their registration.

4. Fourth group represents the self-employed journalists. This status, unlike independent journalists, who can perform only in this occupation, enables its holder to register multiple areas of activity and thus increase his/her monthly earnings by working with more employers than one.

The position of an independent journalist, entered in the register of the Ministry of Culture is regarding insurance and pension contributions similar to the status of self-employed journalists. The difference is that independent journalists do not need to follow all the bureaucratic procedures that self-employed journalist must and they also have a fixed 40-percent of the normalized costs which are for self-employed journalists income-based and thus can be much smaller.

Due to the increasing uncertainty in the labour market and due to the weaknesses of the status of independent journalist, the number of independent journalists is decreasing (from 284 in 2012 to 217 in 2016) while the number of self-employed journalists is increasing – from 450 in 2008 to 563 in 2013.(Društvo novinarjev Slovenije 2014)

Beside this obvious differentiation of media labour market regarding the utilisation of different labour and civil employment and work contracts, even more worrying is relative small possibility of moving from precarious forms of employment or work to more secure regular employment. As one of the interviewed journalists said: “My journalistic path is from student work, through contract work to self-employment.”

Overall, the main reasons for the difficult situation of freelance and independent journalists in comparison with permanent employees are:

- the payments are too low and often late
- consequently it is difficult for journalists (especially for independent journalists) to pay contributions for pension, disability and health insurance
- they do not have opportunities for improving their skills through additional education

- have low chance of obtaining bank loans

But even with such weaknesses, freelance and independent journalists are not most vulnerable group. There are journalists that are working even without contracts or illegally for their employers thus having no social security whatsoever.

One of the extremely vulnerable groups are also young part-time journalists in Slovenia or students who work during their studies in a given media and are paid through student referrals. Decreasing opportunities for new generations of journalists to get regular employment are deepening the divide between those older generations with regular employment and new generations working through freelancing and student work – thus increasing also generational gap. In the case of student work, students should accumulate experience and knowledge in specific areas by working under mentorship from more experienced journalists and editors. But mentoring is not paid extra, so assistance to students in writing news and afterwards longer articles is more dependent on the goodwill of individual editors and journalists. Moreover, most students and freelancers are those who work for low pay more than 10 hours a day, contributing thus to their own precarization. Furthermore, in the case that a student encounters a journalist honour tribunal (NCR) for violating the journalistic code, he/she is legally completely unprotected, because the legal departments of media houses generally do not provide for special measures in the case of students.

2.1.2 Enforcement gap

Illegal work of journalists and especially work under the civil work contracts in cases when there are elements of regular employment are relatively frequent forms of work used by Slovenian media houses. And for a very long time such practice was more or less tolerated by Slovenian authorities, partly due to inadequate legislation and partly due to the lengthy and difficult procedures for determining the existence of employment contract elements (ie: personal work, continuous work, for pay, subordination of worker).

In November 2005, the interpretation of the collective agreement for professional journalists (KPPN), was adopted in which the concept of freelance journalist and scope his rights are more clearly defined. But already in the introductory text it explains that interpretation does not affect the question of the existence of elements of the employment relationship or a journalist question when journalistic work can be performed on the basis of copyright or other contracts. It must be assessed on the basis of the existence of the elements of the employment relationship of the ERA. The second point defines that pay for work of freelancers should be fixed by special contract in which conditions cannot be lower than for regular employees and that freelance journalists' material costs for the booked contributions should be recognized. Scope of rights of freelance journalist are otherwise

determined by the parties with the appropriate tariff or the contract price in a particular contract, but their free will contract is limited in that it must take into account the payment of a comparable regular employee (for example, with comparable education level and work experience, with a similar job description and the responsibilities of the job) in proportion to the extent of commissioned work. That means that a freelance journalists should be paid in proportion to the quantity of their work. These terms of equal treatment of freelancers and regular employees were respected only partially in practice.

More recently, with the new amendments (2013) to the labour legislation (Employment Relationship Act – ERA1) and introduction of the term economically dependent person and the sensibilization of Slovenian society, there are also more activities for enforcing the Slovenian legislation.

Even before that, at the end of 2007, labour inspectors conducted a campaign of control over the implementation of employment law for employers in the newspaper activities, radio and television, with a focus on employment and work of journalists. The purpose of the campaign was to obtain a snapshot of how many journalists in Slovenia are employed on the basis of employment contracts and how many carry out their work on other legal grounds (especially of the work contract, copyright contract work, etc.). Under these civil law contracts, the inspectors tried to verify whether there are elements of the employment relationship. Inspectors conducted 68 inspections at 64 employers. They found 51 violations and issued 49 measures (Labour Inspectorate RS 2007, 148).

The main findings of the campaign were:

- From the total of 1,200 journalists 170 were performing work under civil law contracts,
- Inspectors detected a lot of work on the basis of civil law contracts 900 (work contract or contracts on business cooperation), and more than 2,350 contracts on the orders of a copyrighted work. These contracts were concluded with freelance journalists as well as with people who were unemployed, pensioners, employees at other employers, sole proprietors, individuals etc.
- Employers concluded civil law contracts also for tasks that are not typical for journalism (cameraman, assistant editor, lecturer, translator, administrator, paperboys, etc.).
- Despite massive contracts in the field of civil law, inspectors only found three violations in connection with work on the basis of contracts which contained elements of the employment relationship.
- at employers that are engaged in the business of radio or television, inspectors observed several instances where a person was engaged on the basis of civil law contracts or the copyrighted work (as editors, journalists, actors, etc.), while it was clear from the records that they were regularly present on the premises of the employer for many hours. On the other hand, they were not able to determine if, in these cases, there were present all the elements of employment relationship. At this point, such examples show that it was very difficult to determine whether there are elements of employment relationship.

- Journalists who have the status of a freelance journalist, are often concluding civil law contracts with employers, which set out certain rights that are otherwise typical of an employment relationship, such as: reimbursement of expenses for meals during work, reimbursement of transport costs, pay for annual leave etc.

2.1.3 Representation gap

Increasing share of journalists and other media workers that are working under employment and work contracts different than regular employment also increase the problem of their representation against the employer.

In Slovenian media space there are three trade unions: (Trade) Union of Journalists of Slovenia, Association of Slovenian Journalists and Association of Journalists and Publishers. All three associations are aware of the problems related to the precarization of their profession, but they are still relatively rigid associations. For example, the trade union at the RTV Slovenia did not change its statute making thus more difficult for precarious workers to become its members. As the representative of Union of Journalists puts: "Trade union is partly responsible for precarisation, for division into castes inside the journalism and for the de-professionalization." On the other hand, all three associations are increasing their activities for providing security to precarious journalists. Trade unions are open to precarious workers, but the share of members among freelancers and independent journalists is still relatively small. Some freelance and independent journalists want to join the union, but are afraid to do so. In some media houses they are also discouraged to join the existing or to form the trade union. Some issues related to the trade union's activities are:

- Professional solidarity: the strength of trade unions and associations is reflected in the activities of union members and their readiness for action. In the case that certain group of journalists withstand or do not respond to the campaign of professional associations for various reasons (eg. do not want to compromise their job, they do not agree with the purpose / objectives of the campaign or are simply indifferent to the problem), the power and the work of professional associations is reduced and thus also the possibility of realizing the purpose is decreasing. Peer solidarity in such cases is most important, and is reflected in the fact that regularly employed journalist are aware of the problems of independent journalists and vice versa. In the case of Slovenian journalists there is a wide divide between those in regular employment and those outside. Some of most famous journalists that are indifferent or even oppose to the collective action are named as 'mandarins'.
- Legal protection: According to some freelancers Slovenian Union of Journalists represents mainly the interests of salaried journalists who are enrolled – they also have

the right to legal aid, as well as they are much better protected due to the type of the employment contract than independent journalists and freelancers.

- Measures to increase the engagement of journalists: independent and freelance journalists are otherwise legally protected, but if they are too passive, the Association of Journalists Slovenia has no jurisdiction to act. Also in cases where the journalist does not want to expose itself against the boss, the power of professional associations is affected.

On the other hand, trade unions are missing a partner in social dialogue since the overwhelming majority of employers withdrew from the collective agreement in 1998. After the organizational change of the Chamber of Commerce, when membership was changed from mandatory to voluntary, employers also lost relevant and representative negotiating team. In 2015 Labour and Social Court in Ljubljana, ruled at first instance that the collective agreement for professional journalists is still valid for Chamber of Media. RTV Slovenia and STA (Slovenian Press Agency) are the only two media houses that still recognise the collective agreement for professional journalists.

In 2007 Slovenian journalists drew attention to the commercial and political pressures, lowering standards and poor working conditions, and focused on freelance journalists whose work is carried out on the basis of copyright contracts.

They stressed in particular the following unresolved segments: journalist uncertain future with regard to employment, 89.4% of contractual journalists at the RTV Slovenia (RTVS) wanted a regular job, while instead they were forced in the status of freelance journalists (Slovenian Union of Journalists 2009).

2.2 Consequences

One of the most important consequences of the abovementioned trends of increasing precarization of Slovenian media space is further de-professionalization of all professions related to this activity.

As the former president of the Slovenian Association of Journalists says: “Journalists have today much less time for the individual assignment. Today's journalists are less educated and do not have time to become experts of the topic. Contributions are worse, their professionalism and the quality of journalism are declining due to pressure to increase quantitative level of journalism. “

Very poor or non-existent employment policies of Slovenian media houses are calling into question the professionalism of journalism, since journalists who are paid for contribution or article, are hurrying to write as much as possible (less quality) contributions to increase their monthly income. Moreover, insisting only on reducing costs means lack of real analyses of

the quality of the produced outcome, less investment in education and mentorship and consequently lack of long-term strategies.

On the other hand, some of the already well-established journalists who think that for the agreed payment of fees it is sufficient verbal agreement with the client, are unknowingly promoting inadequate contractual relationships of freelancers and independent journalists and greater individualism. One of the interviewees said: “Everyone is fighting for his own status, and seeks solidarity only when he becomes a problem.”

This individualism is further enforced by the inability to make a collective lawsuit against the employer. According to the trade union’s representative, “at the moment only individual lawsuits against the employer are possible”. Trade unions can offer some legal support but individuals have to endure lengthy (usually few years), stressful and money consuming trials on their own.

Despite the fact that freelancers and independent journalists are working in extremely poor conditions, journalists do not wish to speak open about it because of fear for their employment.

2.3 RTV Slovenia

RTV Slovenia is a public service of special cultural and national importance. It receives funds for operating from the public monthly subscriptions for the programmes and services of RTV Slovenia, from the marketing activities, from the state budget and from sponsorship and other sources in accordance with the law and statute.

The special status of RTV Slovenia was confirmed in 2002 when the Law on the salary system in the public sector was adopted. According to it journalists working at the RTV Slovenia are treated as state employees. The Association of Journalists of Slovenia was against such treatment, claiming that such legislative definition strongly diminish the independence of public institution.

On the other hand, RTV Slovenia treated its journalists as any other media house, increasing the share of precarious workers (journalists, cameramen, editors, directors) with civil work contracts. Many of them are working in such contracts for a decade or two without any signs that their contract would be changed into employment contract soon. Already in 2004 the revision of the Court of Audit at the RTV Slovenia found attempts of evading labour legislation by trying to elude the conclusion of an employment relationship contract in 50.8% (305 workers) of revised contracts, but otherwise there was no legal action against it.

Only in September 2007 the Section of contractual (independent and freelancers) journalists was established operating within the Slovenian Union of Journalists, with objective to improve their status in all editorials. One of the major goals of the section is also making of long-term employment plans, since journalists can work independently only if they have social security and are not afraid of cancellation of contracts due to critical reporting.

In November 2008 the conference entitled 'Regulation of the statuses of independent and freelance journalists in RTV Slovenia' was organized. At the conference key challenges for independent and freelance journalists were highlighted:

- The media house does not have a career plan and staffing plan for long-term employment. Thus the fate of the free and independent journalists is not clear - when, or even if they will get a regular job.
- Signing of legally inappropriate contracts. After an overview by the trade unions' legal service, it was noted that by signing such contracts a freelance journalist is deprived of € 60 monthly which on annual level brings a monthly salary.
- On the other hand, regular employment could be gained through the special relations (favourism) with the management. "It is useful if employers like you. If you're not working as it should be, the worst case scenario is non-renewal of the contract, while in the best case, you will get to the list of those who might once be hired", said one of the interviewees.
- Precarious employment also brings an unstable financial situation. Part-time journalists face housing problems and insecurity at large investments (buying cars, apartments, financing repairs). Financial uncertainty, according to independent journalist, also derives from the fact that part-time journalists provide their own healthcare and social security by paying monthly contributions, which in her case amounts to almost one third of the monthly salary. In addition to this as an independent journalist she does not get from RTV Slovenia the costs reimbursed for telephone, transport, does not receive holiday pay and Christmas bonuses.
- Health issues could also disable the functioning of editorial staff. Labour costs cutting has already made many editorials understaffed and additional illness could mean that a team could not deliver service. Thus many workers are present at the work regardless on their actual health conditions.
- Detrimental to social security. RTV Slovenia otherwise reimburse travel costs, such as hotel costs, transport abroad and the like. But the reimbursement is paid out as a part of normal salary which is then taxed as such (salary) by the tax legislation. President of the section stating example of sports reporter, covering the skiing in Sweden and he had to pay the airplane ticket and hotel costs, which together amounted to a few thousand euros. When he received the reimbursement, it looked as if his salary is € 5,000. Thus, he fell in the highest tax class for contributions, so that next year he had to pay about € 700 of monthly contributions.
- There are no guarantees about the future. Part-time journalists, employees of RTV Slovenia, do not have no assurance by the employer that they will be offered regular

employment. If they complain about payment or working conditions the answer is: “do not complain, there is always someone who is prepared to work for less.”

- Reluctance of solving problems by the management. Members of the Section of freelance and independent journalists have repeatedly called on for the social dialogue for regulation of the statuses of part-time employees, but according to representatives executives did not respond.

That exercising their rights could cost journalists their jobs, shows the example of the freelance journalist working at the RTV under the civil work contract. He says that in Slovenia the problem is that the law is not respected, and that employers should be ‘forced’ to appreciate the status of freelance journalists or to employ people in the case when it comes to covert employment. However, this coercion “to the employer could be applied only through suing him. If, however, you sue your employer, you could lose your job in the next moment” he stresses. This is exactly what happened to him, when he presented his critical analysis of his contract, supported by legal comments, to the management. In the beginning of May 2009 he (in cooperation with the Legal Service of the Trade Union of Journalists) sent a letter with proposals for changes in the contract together with the request for establishment of regular employment to the management of RTV Slovenia and for information, to the Labour Inspectorate. The letter was also sent to all other fellow journalists in order to warn them to irregularities in the contracts and thereby show their dissatisfaction with the current state of regulation of contractual relationships in RTV Slovenia. Only one colleague did the same and he was also dismissed. Both are trying now to solve their case in court. In the event that the court rules in favour of journalists, RTV Slovenia should employ them for an indefinite period. (Bric 2010)

2.4 Solutions through social dialogue?

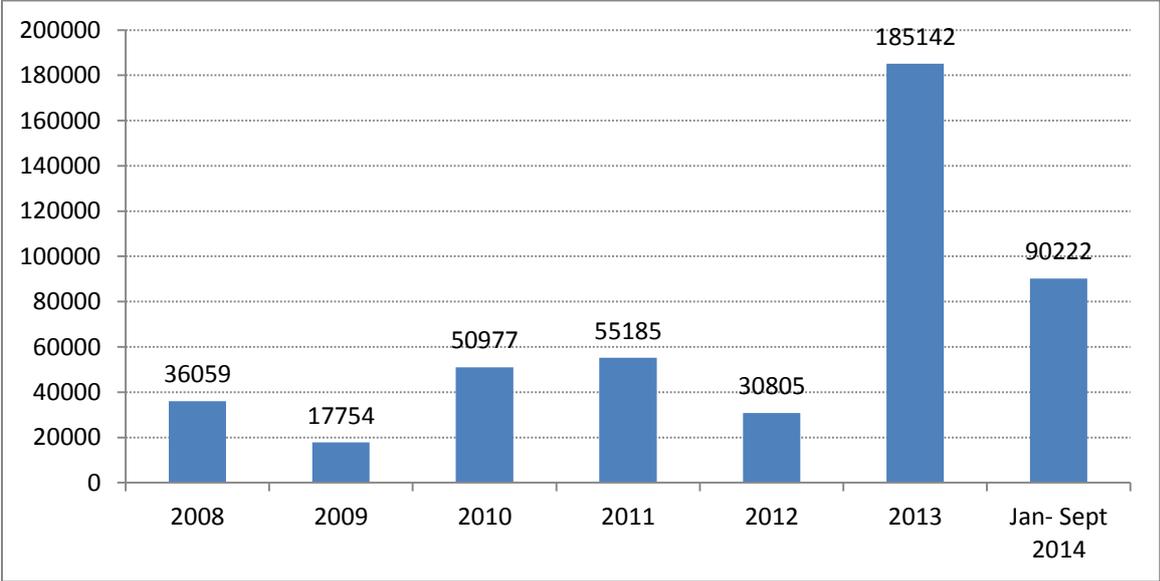
After relatively long time of avoiding the issues related to precarious workers in RTV Slovenia, and partly forced by the activities of trade unions’ associations, the top management accepted its responsibilities. In December 2012 the agreement on the employment of part-time employees of RTV Slovenia (The agreement on the recognition of the rights of freelancers and independent workers and regular employment of contract workers in the public institute RTV Slovenia) was signed after the preliminary agreement in 2010 between the top management of RTV Slovenia and three trade unions at the RTV Slovenia and the Slovenian Union of Journalists. (MMC RTV SLO 2012)

The agreement stipulated that RTV Slovenia should give regular employment to more than 250 of its workers that were employed until now with civil work contracts regardless to the determined existing elements of the employment contract. Regardless to the signed agreement, the negotiations about the implementation of the agreement continued until

2015 when the first regular employment of previously employed through the civil work contract was implemented. Until January 2016 RTV Slovenia employed 150 such workers and until the end of 2016 it will employ 100 more.

RTV Slovenia was forced in resolving the situation also partly by the high costs of the lawsuit actions by its part-time employees, which should be otherwise employed regularly, especially after 2012 (see graph 2). Between 2008 and August 2015 the compensation of employees' lawsuits amounted to more than 600,000 euros. And for those who won the lawsuit against RTV Slovenia, it should pay insufficient payroll contributions from labour for the previous period.

Graph2: Net payments to part-time employees due to lawsuits at RTV Slovenia, in Euros



Source: Voh Boštic 2014

As a follow up to the previous actions, the Slovenian Labour Inspectorate (SLI) in cooperation with the trade unions and Financial Administration conducted at the end of 2015 a high-profile campaign of control (coordinated at the same time) in the 10 largest media houses. SLI focused on detection of breaches of the prohibition on the conclusion of civil law contracts in the case of existence of elements of an employment relationship. Extensive documentation was seized during the campaign, which has to be thoroughly inspected, so the results of the campaign will be reported only in the report on the inspectorate's work for the year 2016 (in 2017). Labour inspectorate also proposed amendments to the Law on labour inspection to the Ministry of labour, to upgrade the provision, which defines the action of the labour inspectorate in case of violations of the prohibition of concluding civil law contracts on the existence of elements of an employment relationship – to determine the employer's obligation to offer the employee an employment contract. (Labour Inspectorate RS 2016)

Case 3: Retail workers

3.1 General characteristics of the retail sector

According to Labour Force Survey data, the wholesale and retail sector in Slovenia, with 111,000 employees in 2015, accounted for 12% of employment in the country's economy. While in the period between 2007 and 2015 the number of employees decreased from 117,000 its share in the economy is constantly around 12 %. There are more women than men employed in the retail. The share of women employed in sector is decreased from 55% in 2008 to 50.6 % in 2013, but since then increased to 52 % in 2015 (SORS).

The retail sector in Slovenia has been characterized by the fast growth of private companies due to privatization of former socialist-run companies as well as the entrance of foreign commercial chains from 1991 on (Rogelj 2004). The sector's rate of collective bargaining coverage is 100% and the social partners (two trade unions and three employer organizations) all evaluated sectoral social dialogue in 2009 as quite successful (Lužar 2011). The same analysis revealed the social partners' favourable evaluation of the commercial sector as a reliable employer. However, representatives of the sector's main trade union were also critical of the low wages within the sector and the huge differences in working conditions between different employers, some considered decent and others not, where laws and collective agreements are not carried out (Franca 2006). Wages in the retail sector are lower than the average wage in Slovenia, and differ considerably by gender. In 2014 the average gross monthly earnings for men working in retail was 1434 Euros and for women 1196 Euros (SORS). Working conditions in the sector, which have always been hard (because of mentally and physically demanding work, shift work, etc.) have additionally intensified due to increased competition in the last two decades. A long and heated public debate regarding working hours on Sundays a decade ago resulted in many retail shops being open on Sundays in spite of strong opposition from trade unions and an important part of the civil society. Analyses of working conditions have drawn attention to safety and health issues within the sector, confirming that retail has some of the highest numbers of accidents at work (Mrčela 2012).

Trade unionists publicly pointed to many problems existing in the feminised retail sector: "The position of women in retail is very difficult and uncertain, the most controversial are the excessively long working hours, which is burdening both employed workers and their families... Owners and management of retail companies are exploiting the fear of workers of dismissal and therefore arbitrarily extend the working time. Thus, the 40-hour work week is only written on paper, the right to a half-hour break is not respected, overtime is not paid, so workers despite working longer are not better paid. Female workers are physically and

mentally exhausted and therefore all the more goes to seek leaves" (Sandi Bartol, president of Trade union of retail in 2001).

After more than a decade trade unionists still report about numerous issues in the retail sector: "I'm getting a bunch of emails, where people write about their problems. The company is ruled by animal relations, although wages are not bad...the biggest problem are relations between superiors and subordinates, whereby subordinates tend to remain silent, or they want to remain anonymous (Ladislav Rozic, President of the Trade Union of retail Slovenia, 2012).

A qualitative study of one of the biggest Slovenian retail companies, employing around 9,000 persons at the time of the analysis (2006) revealed the hard working conditions in a company that has often being presented and regarded as a good employer concerned with employees' wellbeing (Kanjuro Mrčela and Černigoj Sadar, 2014). Analysis showed that workers took a large part of the bad working conditions (eg. shift and weekend work) for granted because of the nature of the retail business and also because of the tendency to see quality of life as a private problem. In their public presentations and in communications to employees, the analysed company placed care of employees and their family life high on the agenda. However, despite this public portrayal, the organizational culture and actual working conditions were often quite different. Yet employees did not hold the employer responsible for their problems in achieving work life balance, rather they view their situation as part of the general bad situation in Slovenian working environment and have adapted to this. Public awareness of employers who are far worse certainly influenced employees' level of tolerance of the gap between the official rhetoric and actual practice. Results of the analysis illustrated changes in the Slovenian transitional economy that have led to the dominance of paid work over other spheres of life, in contradiction to the legacies and expectations for quality of life that existed during the former regime. These changes could be viewed within the broader context of the restoration of a neo-liberal economy and unregulated capitalism. Increasing flexibility of employment that tends to be on ever shorter part-time basis is explained by the uncertainty of employers: "They are afraid and don't employ because they do not know what will happen. This is why they are forcing employees to very, very long working hours for the same money. And, of course, that on the other hand reduce costs due to fewer employees,... The whole trend goes in that direction ...from employing full-time, they started to employ part time, and now for some time we are seeing jobs for just 5 hours per week" (Trček, 2015).

3.2 Precariousness in the retail sector: intensification of work and erosion of social security of workers

In the interviews we had with trade union and employer representatives as well as with director of the Labour inspectorate we got the information about the high level of precarious

employment, the long working hours, and the work intensity built into the organizational culture in retail organisations. All of that weaken capabilities of workers for demanding better employment and working conditions. It seems that in retail workers take limitations on quality of employment and working conditions for granted, as being part of the nature of work (e.g. work in unsocial hours). A combination of financial reasons—very important for the low paid workers —and a perception of long working hours as a necessary condition for retaining the job in a precarious market makes workers in retail passive in acceptance of the precarious employment/working framework. Our interviewees pointed to the main forms of flexible employment practices: part time work, fixed-term contracts (students, agency workers and foreign workers), forced self-employment, shift and Sunday work). The intensification of work in the last decades was caused by downsizing, both in terms of scope and pace. Besides working with customers, workers in shops now have additional tasks to perform (e.g. preparing the shop and filling shelves, closing checks, some cleaning). This means that they must stay at work longer, without being paid for their extra work. In hard economic times retail employees also have to deal with more shop-lifting, which they are expected to monitor and prevent. The amount of administrative work has also increased; as no new employees are being hired, those left have to pick up the slack. Workers on parental or sick leave are usually not replaced, and their work is distributed among others.

Working intensive long hours or longer?

Labour inspectorate controls show that working conditions are increasingly difficult: “People are working 12-16 hours per day. We practically have no supervision that doesn’t report on breaches of the rest periods.... It is very difficult to control the time, but everywhere we go we find violations, which means that there is no normal work ... that workers don’t have enough of repose from one day to another. .. this is going across all boundaries...we had this focused control in the last year.... because we received a really large number of denunciations - mainly on forced long working time... with aim that 4 workers do the work of five. ... they are forced to work for 10-12 hours a day - it's inhuman, abnormal... They come to work at abnormal hours,.. everywhere where they do these bakery products...they have to bake at least one hour before opening and workers come and have to tell that they are getting there in order to drink coffee together, because they like to hang out - it's a disaster... we had complains, complains, complains: “we have to work all the time, working is abnormally prolonged, we don’t have any rest, we do not have any breaks ... we have to do everything... fill the shelves, we don’t have enough workers”... especially in smaller shops.”...and other employers use part-time work - it is a very, very intense form of work, which means that you in five hours has to do as much as at other retailers in one normal working day.” (Trček, N. 2015).

Part time work has been introduced by foreign retail employers in order to accommodate need for flexible organisation of work. Part time work that is well paid (as full-time in other companies) is seen by some commentators as a better solution than worse paid long working hours with other employers: "At Lidl and Hofer workers are there 5 hours, only

managers are employed full-time. But, they are paid as much as someone for 8 hours. In large retailers - in our largest and the like – people don't work only 8 hours, but at least 10 hours... in Lidl at the beginning it is little flexible, but you get 900 to € 1,000 for 5 hours of work. It is really intensive work, but compare that with someone who really should be there 10 or 12 hours...and salaries are poor.... (Trček, N. 2015).

For workers employed for 25-30 hours per week many of whom work on unpredictable schedules and often also overtime this work organisation causes negative short and long-term consequences. Namely, the part time employment is connected with partial social security contributions i.e. retirement basis. This problem is not easy solvable for workers who being on disposal to the main employer can't find another additional job and have to low income to pay for the social contributions themselves. Trade union representatives reported on much longer working hours of these workers who are formally employed on part-time contracts and on existence of double or triple evidences on working time (one real for workers, the other for managers and third for inspectors).

The Report of the Labour Inspectorate (2015) on a control focused on grocery stores showed that inspectors who carried out 120 inspections found 79 infringements, mainly violations of the Labour Relations Act and other regulations regarding working time and rests (rest between two successive working days, overtime work, breaks during working hours, weekly rest periods, the allocation of working time, and record-keeping on the use of working time). Inspectors in the field of occupational safety and health in the context of this campaign in grocery stores conducted 104 inspections and found 84 infringements (among other regarding inadequate equipped working environment, the inadequacy of electrical, inadequate fire-fighting equipment, inadequate ventilation, inadequate air temperature , the inadequacy of the ladder, poor maintenance and inspection of electrical installations in buildings, the inadequacy of the work equipment, its examinations and tests, the lack of risk assessments and safety statements, lack of or inadequate training of employees for safe and healthy working conditions, flaws as regards the provision of personal protective equipment, provision of medical examinations of workers, training workers to perform their work safely etc.)

Small shops –self employed “entrepreneurs”

Although trends in the last decades are clearly in favour of big (foreign) retail chains, there is still 10-12 % of small retail shops. Part of them are according to trade union representative run by self-employed workers that were previously employed by the bigger employers. These small enterprises have usually one to two employees who work in precarious working conditions.

“No one there exceeds minimal wage...there is simply no accumulation. Often I wonder: five things sold per day, the price difference - even if it is 30% - how do they survive?! Even if they have own premises, they must pay electricity, they must pay taxes, internet connection...”(Antauer, 2015).

“...they have all sorts of problems - too much work, wages lagging behind, and violation of all other rights. There are really many violations, ...usually the owner also works there as much and as well as he can and know,... and everything else is done by someone else who helps him...someone in a precarious form of employment... If you are open 16 hours, then you know that the two employees will not cover sick leaves, Saturdays, Sundays, and I do not know what all. You very quickly get to the infringements ... these small shops are terrible. There is terrible.”

Based on findings of the presented analysis we could conclude that in the retail there exist enforcement gaps connected to the divergence between the relatively high standards of the Slovenian labour legislation and regulation on one hand and practice on the other. Enforcement of rights of regularly employed is influenced by lack of regulatory and representation rights of part-timers, students and agency/migrant workers. That is also the reason why many workers in retail are not organised in trade unions or hide their membership from employers. Fear of losing the job is making them accept consequences of the precarious employment (working in bad working conditions, small payment, reduced or no social security).

3.3 Innovation through social dialogue?

Our analysis showed that increasing precarity in the retail in Slovenia encompass both decrease of quality of work of regularly employed workers (more of different work tasks, longer working hours, breaches of rights regarding rests, working time, etc.) and proliferation of precarious forms of employment and work (part-time work, student work, agency and migrant work being the most important). Somewhere different groups of workers work together while some employers introduced changes in organisation of the working process that substituted standard full time employment almost completely (e.g. Lidl employing sales workers on part-time basis and only managers on full time basis). In both cases we found lack of solidarity and existence of tensions between different groups of workers.

Representatives of employers (organisations) and government do not see any alternative to the increased flexibility of employment and work practices in face of the existing competitive pressures. Sales workers face occupational deregulation and de-professionalization that is ironically presented by employers as being positive for them in terms of promotion opportunities. Many of changes are presented by employers/government not only as “simplification of the business environment that will increase employment and self-employment opportunities and have positive effects on social entrepreneurship” as Minister of the Economy Zdravko Počivalšek commented deregulation of sales occupation last year (MMC RTV SLO/STA, 2015) but also as an increase of the free choice of workers, potential for better work-life balance and promotion opportunities.

Reactions of the trade unions on the increased flexibility and decreased standards of working conditions in retail sector could be seen as innovative in a certain sense as they replace the traditional representation and fight for workers interest with “mending” strategies aimed to mitigate the consequences of the precariousness.

Faced with financial and social security problems of part-time employed workers or low paid workers trade unions are finding ways to support their members financially (e.g. by giving loan guaranties to those who can't get bank loans based on part time employment contracts or based on their low incomes). In realisation of actions like this trade union of commerce collaborates with Trade Union Youth plus in order to reach younger workers.

Some efforts to mitigate negative consequences of precarious work are done in collaboration with employers and their associations. An example of that are numerous training and information projects/programmes dealing with health and safety e.g. stress at work. While it is widely acknowledged that stress at work has not only individual but also organisational and broader social reasons (unsecure job prospects being a very important one) anti-stress programmes are mainly oriented to individuals. Employers and trade unions are thus supporting individual coping strategies with working conditions that are consequence of erosion of working standards – previously existing secure jobs and decent wages.

One of the recently organised trade union events – a conference on working time in retail - was an opportunity for social partners to try resolving the problem that is as we explained above among the crucial problems of precarity of workers in the sector. Both government and employers' organisation representatives attended the conference organised by the Trade union of Commerce and discussed the problems regarding working time most of which are connected to breaching of the existing regulation. The conclusions of the conference envisaged education activities and joint work of social partners on explanation of the regulation (Collective agreement). This form of collaboration of social partners in retail could be seen as positive. However, it is questionable whether direct violations of existing legislation should be treated as a problem that is to be solved by education.

In spite of highly documented violations of workers' rights and worsening working conditions i.e. increased precarious in retail in both Slovenia and wider (Hamann, A. and Giese, G. 2005) there are not many initiatives that address key issues in order to reduce the discrepancies between well-defined legal and rhetoric framework and extremely problematic reality. A part of mapped activities aimed at long-term quality of work in retail is based upon a definition of Social dialogue in line with views of one of our interviewees: ...we forget a very essential part of the social dialogue ... Social dialogue does not mean showing muscles. Social dialogue is also simple conversation between workers and employers.” (Antauer, I. 2015).

Some already existing and developing forms of organising of precarious groups of workers (young or self-employed sales workers) are on the other hand oriented more in terms of

developing strength of those who are not yet well perceived as agents “capable of imposing themselves, as authorized to speak and to act officially in its place and in its name, upon those who, by recognizing themselves in these plenipotentiaries, by recognizing them as endowed with full power to speak and act in their name, recognize themselves as members of the class, and in doing so, confer upon it the only form of existence a group can possess” (Bourdieu, 1987:15). We think that the constitution of these agents in full-fledged actors of social dialogue would constitute a real innovation.

8 Conclusion

Ten years ago the analyses of the situation on the labour market in Slovenia and in other countries showed the increasing flexibility of labour and employment and the need for the introduction of the flexicurity concept. Recent analyses suggest that changes in the last decade in many European countries, including Slovenia went in the opposite direction - fewer workers have the perspective of flexicurity, while for most, and especially the youth working lives are characterized by an increasing precariousness.

The post-transition period in Slovenia and especially the period after gaining the EU membership, has witnessed increasing flexibilization of the Slovenian labour market, but has not led yet to a dramatic increase in precarious forms of employment and poor quality jobs. For example, the main characteristic of women in the Slovenian labour market is still high turnout in full-time jobs, which, despite the continuing problems (segregation in the labour market, gaps in pay and especially above average burden on women's unpaid work in the household and care work) is the basis of economic equality for women. On the other hand, there are forms of flexible work and employment, which are used in the most developed economies and which are enabling higher quality of work and better control of various obligations of employees (spatial and temporal forms of flexibility), that are almost non-existent in the Slovenian labour market. "Friendly" forms are used distinctly rarely and mostly only if they are in the interests of employers (Kanjuo Mrčela and Ignjatović, 2004).

On the other hand, the analysis of the empirical data for Slovenia showed that Slovenian labour market transformed itself from the relatively rigid and inflexible labour market to the labour market with escalating uncertainty and intensification of labour and employment, particularly in a period of crisis for those who have kept the employment. This transformation of the Slovenian labour market was not a product of proactive strategy of increasing labour market flexibility, but rather the usual defensive strategy of the current labour market adjustment to the challenges of the environment. Such developments have produced greater segmentation of Slovenian labour market and society with some distinctive winners and losers. The particularly vulnerable group when it comes to labour market flexibilization are young people (15-24 years). This means that those who are entering labour market as first job seekers have to accept less secure (and still less desirable) forms of employment, which are perceived as starting points in the labour market and the opportunity for acquiring experience. On the other hand, in the present pattern of increasing flexibilization it may be also hidden the discrimination against older people (uneducated, unemployed) which do not get any job at all.

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