



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

Research project VS/2014/0534 financed by the European Commission

**Comparative report**

(Croatia, Czechia, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia)

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## **Executive summary**

### **PROJECT GOALS**

This project investigated the role of industrial relations in addressing precarious work. It focused on the initiatives and responses that trade unions and employers' associations developed to deal with precarious work in Croatia, the Czech Republic (hereafter Czechia), Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia since 2008. In each country, the study analysed developments in five sectors, namely public healthcare, the metal industry, construction, retail and temporary agency work (TAW). The project used a qualitative approach to examine the dimensions of precarious employment, including low pay, irregular working hours, low job security and limited representation of workers' rights.

### **DUAL LABOUR MARKETS**

Apart from an increase in the share of non-standard work contracts since 2008, findings suggest that all forms of employment were exposed to more precarious conditions following various degrees of labour market deregulation across the 10 countries. In a context of weak law enforcement and decreasing unions' role and influence, employers were able to use (and sometimes abuse) their enlarged prerogatives to increase the workload, the use of irregular working time and sometimes, to reduce the income of workers on all types of contracts. Still, workers in the informal market and dependent self-employed have the most precarious working conditions across the countries. These vulnerable groups are most prevalent in the construction and the retail sectors, often doing work for small domestic firms. In contrast, large (often multinational) firms, particularly in the construction and metal sectors use more frequently outsourcing to reduce labour costs. The share of agency workers, fixed-term and part-time employees has risen across the countries but less than expected in some countries (e.g. Croatia and Romania) due to labour shortages associated with massive emigration and the fact that employers have sufficient leverage to demand employees on full-time open ended contracts to work irregular hours contingent on companies' needs.

### **RESPONSES OF SOCIAL PARTNERS TO PRECARIOUS EMPLOYMENT**

Social partners focused primarily on legal initiatives to regulate precarious work at the national level, while additional initiatives, such as collective bargaining were used at lower levels. Employers' initiatives generally sought to deregulate the labour market and they have been quite successful, in most countries. Unions' initiatives to improve precarious employment conditions through legislation often failed, which sometimes resulted in innovative or 'recombined' old and new strategies to fight against precarious work. In some countries, unions managed to organise the most vulnerable workers, such as self-employed and outsourced employees. Nevertheless, unions' strategies varied across countries from aiming to transform precarious work arrangements into standard employment in Slovenia to supporting the economic rationale of precarious work forms in Latvia.

### **POLICY IMPLICATIONS**

Periods of crisis throw new light on the role of the social partners. The labour market deregulation has shifted the initiative in industrial relations from unions and employers' associations to individual employers by widening their prerogatives to set employment conditions, which in turn, increased the dualization of the labour markets. Furthermore, there is evidence of precarious work practices being exported by multinationals across their subsidiaries, prompting convergence of management practices. Trade unions need to be aware of the international dimension of precarious work, as they could also use their international networks, including their positions in European Works Councils, to fight against spreading precarious work by multinationals and a 'race to the bottom' in labour standards. Nevertheless, social partners cannot fight against precarious work, unless governments guarantee, at least, the fundamental union rights and ensure the effective implementation of labour laws.

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## Introduction

The EU accession and the economic crisis facilitated important changes in the dynamics of labour markets across the new Member States in Central and Eastern Europe (CEE). While the EU accession produced labour shortages in some countries and sectors (Kaminska and Kahancova, 2011; Trif, 2008), the economic crisis has accelerated the rise of non-standard, or precarious, employment forms that has since existed parallel to standard employment forms with decent levels of pay and employment security (Sala and Silva, 2009). Similar developments can also be observed in the case of Greece, where the introduction of wide-ranging and radical austerity measures has accelerated labour market deregulation affecting not only employment protection legislation but also collective bargaining structures (Koukiadaki and Kokkinou, 2016).

*In a micro-level perspective*, precariousness may produce inequality, instability, and insecurity: this is because people who lose their jobs easily or fear losing their jobs lack alternative employment opportunities, and or lack opportunities to develop or maintain particular skills. Non-standard, or precarious, work has gained in importance and has even become the norm in certain sectors, with the retail sector being considered now the low-pay and precarious sector (Mrozowicki et al., 2013). Precariousness increases also in relation to certain occupations that tend to attract vulnerable groups, such as youth, women and migrants. *In a macro-level perspective*, the implications of the rise of precarious employment are a dualized, or fragmented, labour market, where fixed-term contracts, part-time contracts, dependent self-employment, temporary agency work and casual work are crowding out the standard employment contracts (Sala and Silva, 2009; Mrozowicki et al., 2013). The growth of precarious employment also implies a return to individual contractual arrangements and a move away from a collective regulation of employment conditions (Gallagher and Sverke, 2005; Standing, 1999). Employers face a double-pressure for market competitiveness and work flexibilization, while trade unions seek new ways of coping with precariousness and the interest representation of precarious employees. While trade unions struggle to improve the working conditions and economic and social rights of precarious employees, they simultaneously try to reduce precarious employment forms and defend the standard employment relationship with decent working conditions, pay and job security. This paradox has been examined in the literature on outsiders/insiders divide in the context of old EU Member States, where ‘over-protection’ of workers with permanent contracts is associated with weakening protection for marginal groups (EC, 2012). Nevertheless, it is unclear whether there are similar developments in the context of the new EU Member States, particularly in a recent widespread deregulation of the employment rights for employees on standard contracts.

The increase in precariousness in everyday working life has received increased policy attention both at national and EU levels. The latter is manifested in various EU policy documents that aim to improve the economic and social rights of vulnerable groups in precarious employment forms, including the EU Figures of Fundamental Rights (e.g. Articles 31 and 32) and a number of EU directives on non-standard employment, including part-time and fixed-term work, as well as on working time. In addition, the European Employment Strategy encourages the Member States to complement the increasing labour market flexibility with decent social security and stable employment.

The aim of this project is to analyze the role of industrial relations institutions in addressing changes in the labour markets, focusing on the growth of precarious work in the EU. Despite its importance, little evidence is available on the strategies of social partners to address the rise of the dual labour market. To fill this gap, this project explores how the strategies of employers and trade unions across 10 EU Member States represent the interest of non-standard and vulnerable groups in precarious employment forms in the labour market; and how the needs of these groups are addressed in the process of collective bargaining and other initiatives by the social partners.

PRECARIR is innovative in two aspects. The first one is the focus on nine new EU Member States in CEE and Greece as an example of a country facing a significant economic crisis. The second innovative aspect is the project's actor-oriented approach and focus on the role of social partners as industrial relations actors that help shape the social dialogue processes and bargaining outcomes to address precarious employment in the above countries. For example, in Poland, where non-standard employment has become widespread in view of subsequent waves of labour market deregulation, ... there has been 'a chronic lack of effective actors who dare[d] to address (...) poor working conditions and precarious living situations' (Trappmann, 2011: 15). In Slovakia, unions have changed since 2011 their approach to temporary agency workers from a strategy of exclusion to one of integration (Kahancová and Martišková, 2014). The PRECARIR project examines whether social partners are adjusting their actions to modifications in the labour market.

To account for these developments, the project partners collected and analyzed new empirical evidence on adaptation mechanisms and assessed on how effective these are in dealing with the rise of precarious employment. In particular, we engage in country-specific, sector-specific and comparative studies of the strategies and actions that the social partners have undertaken:

- to address the rise of the dual labour market, and especially the growth of precarious work,
- to protect, represent and improve through collective bargaining and social dialogue the social rights of vulnerable employee groups in precarious employment,
- to adjust industrial relations structures and bargaining procedures to better reflect the character of the post-crisis dual labour market.

Subsequent to the introduction, the report has two main parts. The *first* part (chapter 1) presents the analytical framework used to examine developments in each country. It starts with a definition of precarious work, including the dimensions of precariousness investigated and the research objectives. Then, it reviews the relevant literature on the role of trade unions and employers (and their associations) in shaping precarious employment. It discusses the rationales of the two social partners for selecting specific actions to deal with precarious work, their approaches to those actions, the instruments used to address precarious work and the implications of their actions for precarious work. The *second* part presents the cross-country analysis and discussion of the empirical findings (chapters 2, 3 and 4), using the analytical framework developed in part one. It begins with the incidence and the main forms of precarious work (chapter 2). Then, it discusses the role of trade unions in addressing precarious work (chapter 3), followed by the role of employers and employers associations in shaping precarious employment (chapter 4). It concludes with the practical implications of the findings (chapter 5).

## **Chapter 1: Conceptual framework: social partners and precarious work**

### **1.1 Definition and dimensions of precarious employment**

The rise of the dual labour market refers on the one hand to the types of employment relationships, and on the other hand to different groups in the labour market. The definition of precarious employment is closely related to the definition of non-standard employment and is derived from the definition of its opposite, e.g. the standard employment relationship. Aust and Holst (2007) define standard employment relationship as a socially secured, long-term and full-time employment with a wage that allows for a decent living. In contrast, non-standard or atypical, employment refers to the notion of contingent workforce (Heery, 2009) and involves temporary, fixed-term, part-time employment, temporary agency work and dependent self-employment (Kahancová and Martišková, 2011). Kalleberg (2009: 2) defined precarious employment as “employment that is uncertain, unpredictable, and risky from the point of view of the worker”.

However, non-standard employment is not necessarily precarious (Keller and Seifert, 2013; Boonstra et al., 2011). For example, part-time employment often results from a conscious choice of an individual employee. At the same time, some standard employment relationships may be precarious, e.g. when they are low paid, involve an excessive amount of unpaid overtime, or when the social rights and entitlements of the concerned employee are constrained. Acknowledging the above distinctions, we assume that the incidence of precarious employment is particularly high in dualized labour markets, and among workers in non-standard employment forms.

Dörre (2005) identifies precariousness in:

- the material sphere, because precarious jobs do not secure decent living and job security (economic rights),
- the sphere of social communication, because precarious workers are excluded from social networks at their workplace,
- the legal/institutional sphere, because precarious employees are often excluded from access to certain social rights.

The wider effect of precariousness relates to the fact that it may create a large group of vulnerable employees detached from the rest of the labour market participants and the society (Dörre, 2005; Castels, 2000).

Adopting the above definitions of precarious work, improvements in job quality in dualized labour markets require addressing and limiting the presented negative characteristics of precarious employment. Industrial relations institutions and processes, including collective bargaining, belong to the main channels through which such improvements can be made. Despite their relevance, there is a lack of scientific and policy-oriented literature examining the role of industrial relations in fighting precarious employment. In addition, the available literature is often limited to evidence from Western European countries, including France, Germany and the UK (Heery and Abbott, 2000; Bispinck and Schulten, 2011). Systematic evidence on developments in precarious work and, the ways in which industrial relations help mitigating its negative consequences in crisis-stricken Southern European countries, and post-socialist new EU Member States from Central and Eastern Europe (CEE), is not available.

To analytically define precarious employment, country-specific contributions as well as the comparative report adopts the following guidelines in studying precarious work:

- distinguishing precarious work from non-standard work,
- focusing on measurable dimensions of precarious work (see dimensions below),
- adopting an economic and social rights perspective on precariousness, encompassing both individual and collective rights of employees,
- focusing on the institutionalized, or legally anchored, forms of precarious work across the studied EU Member States.

## 1.2 Objectives and research questions

The project has five main objectives:

- To map and review the main legal and labour market characteristics related to the particular forms of precarious employment, and provide evidence on the developments in precarious employment across 10 EU Member States. Earlier research and academic literature provide only a marginal account of precarious employment in the new Member States in CEE and Greece. This gap in the literature justifies our selection of countries for reviewing trends in precarious employment.
- To analyse the challenges social partners face in improving the economic and social rights of precarious workers through collective bargaining and social dialogue.
- To provide insight into the experiences of trade unions regarding organizing and representing precarious employees and improving their rights through collective bargaining, social dialogue and other related measures. Best practices or instructive examples of such trade union action will be presented in greater detail in each country study.
- To analyse the role that industrial relations institutions, processes and outcomes are playing in fighting precarious employment across the crisis-stricken Greece and the new Member States in Central and Eastern Europe.
- To draw implications for research and policy making for national-level and European-level sectoral stakeholders; and disseminate the project findings to these stakeholders. This aim facilitates the promotion of horizontal synergies between research and the social partners on issues of key relevance to both groups; and transnational learning and capacity building of these actors to improve the quality of their work.

The national reports as well as the comparative report address the following **research questions**:

- What are the trends in precarious work in the studied countries in the past five years?
- What are the challenges that social partners face in improving the economic and social rights of precarious workers through industrial relations processes?

- What strategies/actions are social partners undertaking to address precarious work?
- How effective are these strategies/actions (best practices)?
- What are the implications of social partners actions for:
  - representation?
  - access to legal/collective rights?
  - industrial relations institutions?
- What lessons/policy implications can be drawn from country-specific findings?

### 1.3 Analytical approach to dimensions of precariousness

Keller and Seifert (2013) identified a multi-dimensional approach to precariousness, which we follow in the current project. They have identified the following dimensions to precariousness:

- **Income security:** wages below two-thirds of median gross hourly wages in a country.
- **Job security:** low job security when compared to SER.
- **Social security:** limited or no social security entitlements.
- **Employability:** hindered access to training, skill development, and similar.
- **Other labour conditions:** less favourable than in a SER, e.g., limited access to training, holiday and collective benefit entitlements, paid overtime, abuse of travel reimbursements, etc.

In our analysis, we focus especially on **income security**, **job security** and **social security**. Moreover, we extend our analysis by focusing on **working time** in non-standard employment forms and to the **collective voice** of precarious workers, or the state of their interest representation when compared to workers in SER. This operationalization is summarized in a two-dimensional matrix encompassing all of the mentioned dimensions of precariousness (see Table 1).

This matrix allows a qualitative-comparative evaluation of precarious work from each of five studied sectors across 10 EU Member States. It serves as an analytical tool to review sectoral differences in the most important forms and trends in precarious employment. Finally, this matrix-based approach serves as a background for the next part in the analysis – identifying and comparing social partner responses to particular dimensions of precarious work.

**Table 1: Dimensions of precariousness**

		Quality of working conditions dimension					
	Regulated by:		Wages	Working time	Job security	Social security	Representation (voice)
The formal employment status dimension	Labour Code	Full-time open-ended contract					
		Fixed-term contract					
		Part-time contract					
		Work agreements					
		TAW					
	Non Labour Code	Self-employment, bogus self-employment					
		Civil contracts					
		Business contracts					
		Others					

Table 1 covers the five dimensions of precariousness used to evaluate the extent of precariousness or exposure to precariousness in the different types of formal employment relationships. We categorised the employment forms into two categories, namely those regulated by the Labour Code and those regulated by other legal acts. By and large, contracts based on Labour Code are contracts of service, while non-Labour code work are contracts for services, which commonly provide less protection for workers than those regulated by the Labour Code. Each national team got the following guidelines seeking to identify comparable data on whether or not a job quality dimension is precarious:

- **Wages:** indicate whether/how the particular employment form is precarious from the point of view of wages/pay. If data is available, list the share of persons on minimum wage and on low wages (the benchmark is approximately two-thirds of the median wage. Given the data problem, no strict following of the two-thirds benchmark is required).
- **Working time:** evaluate how the employment forms listed in the left column are precarious from the working time perspective. If possible, provide data on: excessive overtime, unpaid overtime, (exposure to) irregular working hours, working time accounts or annual working hours that make working time unpredictable.

- **Job security:** evaluate precariousness of particular employment forms according to the job security dimension: e.g., short dismissal periods, repeated fixed-term employment without a perspective of regular long-term employment contracts, increase of probation periods, uncertainty related to outsourcing/insourcing in case of temporary agency work (TAW) or other forms of contracts.
- **Social security:** exposure to precariousness based on whether comparable social security payments and entitlements are made as in the case of a standard employment contract, e.g., full pension rights, full sickness leave rights, maternity payment rights, rights for unemployment benefits, the reference income for social security entitlements (e.g. in case of minimum wage and envelope payments, the entitlements are based only on the minimum wage), and similar entitlements.
- **Representation of interests (voice):** whether employees with a particular type of contract are represented by trade unions, shop stewards, or other similar interest representation organizations.

The focus on the selected five dimensions of quality of work facilitates the analysis of the findings in relation to whether employers use external and/or internal flexibility to increase work precariousness. External flexibility refers to the easiness with which the number of workers employed can be adapted to meet fluctuations in demand and is primarily associated with non-standard employment contracts (Paolucci, 2016). In the main, external flexibility is achieved by using ‘subordinate’ forms of employment as compared to the standard full-time, open-ended contract, such as part-time, temporary, casual, subcontracted work or self-employed (Streeck, 1987). While precariousness emerges more prominently in relation to ‘job security’, other job quality dimensions may also be affected by the use of non-standard contracts. These effects could be linked to legal stipulations (e.g. self-employed may not be entitled to social security or to be represented by a union) as well as joint regulations by the social partners (e.g. the exclusion of temporary workers from collective agreements).

In contrast, internal flexibility refers to variations in the tasks and working time arrangements for employees on standard contracts. It refers to numerical flexibility through overtime, shift-work or guaranteed working annual working-time arrangements, adjustments in the amount of labour utilized in accordance with cyclical or seasonal shifts within a standard employment relationship (Streeck, 1987). It is also associated with ‘functional flexibility’ referring to the easiness with which the tasks carried out by employees can be adapted to changes in demands. Important aspects of this are redeployment and retraining, which require institutions and payment systems that motivate workers to take over new tasks, acquire new qualifications, and generally, accept continuous fast adjustments in the organisation of work (Paolucci, 2016). The use of internal flexibility generally does not affect job security, but it may increase the precariousness of other job quality dimensions, such as working time (irregular work schedule) or increase workload without an increase in wages. Internal flexibility may reduce the need for external flexibility, but they are not necessary mutually exclusive (Streeck, 1987). The comparative report examines whether employers utilize internal and/or external flexibility in the five selected sectors.


## 1.4 Analytical framework on social partners' actions

Besides comparing forms and incidence of precarious employment across five sectors in 10 EU Member States, the project analyses the attitudes, strategies and actions of social partners vis-à-vis precarious employment in their respective sectors. In an attempt to operationalize social partner strategies/actions, we distinguish between trade unions' and employers' strategies and actions. This derives from the assumption that unions and employers may have different interests regarding the growth of precarious employment forms, and therefore may engage in different actions. We focus on *intended* strategies/actions of social partners and consider *unintended* consequences of their actions only where obvious and relevant for evaluating their overall strategy and actions undertaken.

### 1.4.1 Trade unions' actions vis-à-vis precarious work

The aim of this section is to operationalize the role of trade unions in addressing the economic and social rights of precarious workers as well as the overall implications of unions' actions on precarious work, ranging from its elimination to its retention. The analytical framework on trade union approaches and actions comprises four related steps. We perceive union action to be informed by the overall rationales of union existence in the society, operationalized by the unions' adopted approach towards precarious work, instruments chosen for union action in order to meet the selected approach and the implications that union action yields for the current and future existence of precarious work (see Figure 1).

**Figure 1: Analytical framework for studying the role of trade union in shaping precarious employment**



<b>WHY?</b>	<b>WHAT?</b>	<b>HOW?</b>	<b>IMPLICATIONS</b>
Rationales for union action	Approaches of unions to action	Instruments used for action	Purpose of action regarding precarious work

#### *Trade unions' rationales*

First, we consider the overall rationales of union approaches and actions, derived from the generalized roles of trade unions in a society. Freeman and Medoff (1984) argued that the collective voice and the institutional response of trade unions serve three kinds of rationale for union action, namely, efficiency, equality, and social legitimacy.

First, the efficiency rationale relates to wage growth stipulated through trade union actions, which feed to questions of productivity and competitiveness as key factors for economic growth (Freeman and Medoff, 1984). Wage growth may stimulate improved commitment of employees, productivity, purchasing power and the quality of life. Within this rationale, we expect unions to adopt particular approaches to dealing with precarious work (see sections 1.4.1.2 and 1.4.1.3).

Second, the equality rationale relates to unions as actors possibly facilitating equality in society through regulation of working conditions (Freeman and Medoff, 1984). In relation to precarious work, the equality rationale is directly linked to issues of labour

market segmentation or dualization comprising ‘insiders’ and ‘outsiders’ (Palier and Thelen, 2010). Trade unions may alter the distribution of power, income, and regulatory measures to intensify or to decrease such segmentation or dualization.

Third, the social legitimacy rationale for trade unions comprises democratic interest representation with attempts to represent diverse parts of the society and gain trust and acceptance of such interest representation by the population. The recent history of CEE countries suggests only limited exposure to democratic interest representation prior to 1989 and its formation only during the 1990s and 2000s. Post-socialism encouraged shifts that ‘have remade social networks, communities, and institutions, positively and negatively, as some have been eroded by poverty and inequality and others have emerged from new opportunities and new connections’ (Stenning et al., 2010: 7). Within this rationale, trade unions may develop particular approaches to handling precarious work.

For the purposes of our project, we also include a fourth union rationale e.g. union survival, which is adapted specifically to post-socialist conditions of CEE countries or countries undergoing a severe transition (Greece). We argue that in hostile conditions, union survival can be a rationale for union action in itself, without the necessity to seek connections to the union rationales listed in the literature above. The rationale of union survival motivates trade unions to seek new opportunities for interest representation and for work regulation. Thereby union survival brings with itself a set of approaches, instruments and intended or unintended consequences for precarious work forms.

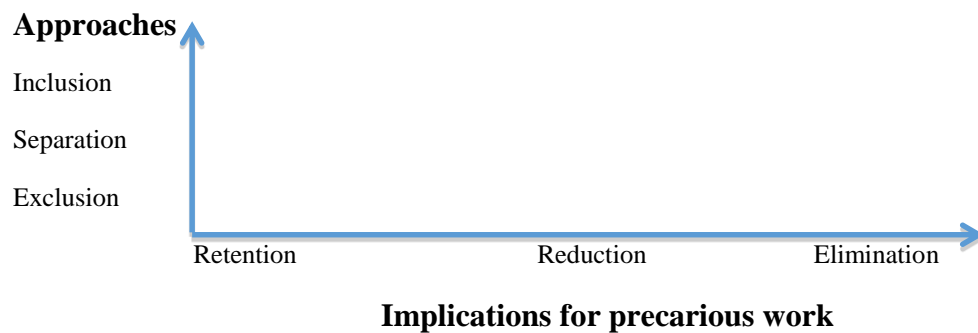
#### *Trade unions’ approaches*

After acknowledging why unions are doing what they are doing (union rationales), the next step in building our analytical framework derives from the question ‘what’ unions actually want to achieve with their action vis-à-vis precarious workers. Here we distinguish between several union approaches to precarious workers as a core stakeholder group exposed to non-standard working forms and at the same time being the core target group of union actions. Earlier literature has called these ‘union strategies’, but we prefer to use the broader term ‘union approaches’ to precarious work to highlight the general stances of unions towards precarious workers with respect to existing forms and incidences of precarious work in the society. We draw on Heery and Abbott (2000) definitions of trade union strategies vis-à-vis contingent workforce:

- **Inclusion:** unions serve as broad interest representation organizations without differentiation between precarious and regular workers.
- **Separation:** unions treat precarious workers as a particular group within union members that requires dedicated attention and action.
- **Exclusion:** unions exclude precarious workers from their interests.
- **Reduction:** unions strive to influence and implement changes in employment conditions of precarious employees to minimize the gap in employment conditions of precarious and regular employees.
- **Elimination:** unions strive for eliminating all forms of precarious work in the economy. Inclusion and separation may serve as temporary strategies towards elimination.

For the purpose of our project, we adjust these analytical categories and operationalize union approaches to precarious workers as varying from inclusion to exclusion, with separation playing a role as a strategy between inclusion and exclusion. Next, we view elimination, reduction, and the retention of status quo incidence of precarious work as the implication of union approaches for the incidence of precarious work (see section 4.1.4). This adaptation of the Heery and Abbott (2000) framework allows us to operationalize union approaches vis-à-vis precarious work as shown in Figure 2:

**Figure 2: Trade union approaches to precarious workers and implications for the incidence of precarious work**



#### *Trade unions' instruments*

Having identified trade union approaches and their implications, the third step in developing our analytical framework is distinguishing between the forms of action that unions have at their disposal in order to reach their goals set out in the adopted approaches vis-à-vis precarious work. Keune (2011) and Boonstra, Keune and Verhulp (2011) distinguish five main instruments at the disposal of unions to deal with precarious work:

- **Collective bargaining:** addressing precarious work in collective agreements to improve the terms and conditions of precarious workers;
- **Litigation:** taking precarious employment cases to court in order to enforce the established employment regulation; includes monitoring, reporting and formal litigation
- **Political instruments:** political lobbying, trade-offs, open/formal as well as informal alliances with political parties and social dialogue in order to influence the legislative process at a central level to improve the legal rights of precarious workers;
- **Mobilizing and organizing precarious workers** in trade unions: unions organize protests, manifestations, strikes, etc to highlight the rights of precarious workers regardless of their union membership.
- **Media campaigns** to influence public opinion: unions use the media to channel their claims, concerns, opinions and attempts to shape public opinion

In addition, the following three instruments may serve as an additional toolkit for unions to influence the economic and social rights of precarious employees and the regulation of precarious work:

- **Service-oriented instruments:** empowerment, information on rights and employment situation
- **Identity politics:** information campaigns, media appearances, involvement in discussions and other similar actions to influence the self-recognition of precarious employees and supporting their empowerment
- Building and disseminating **benchmarks on employment standards** in the society: similar to identity politics, unions engage in information campaigns on decent work, media appearances, discussions and related actions to influence the general perception of standard employment in the society and thus setting benchmarks for what is standard and what is precarious.

We divide these instruments into four overarching sets that cover processes of information, consultation, negotiation and organizing and industrial action. These instruments range from information that unions provide to members and non-members, through consultation and negotiation with employers, government and other stakeholders, to organizing precarious and other workers in unions and industrial action (see Table 2). These instruments serve as a toolbox for trade unions to implement their approaches towards precarious work vis-à-vis various target groups. The list of instruments is not exhaustive, but gives an analytical anchor to country-specific analyses in five sectors across 10 EU Member States.

**Table 2: Instruments to implement unions’ approaches to precarious work**

Category	Target groups of union action	Instruments
Information	Precarious workers	Informal campaigns, service-oriented instruments, individual empowerment
	Precarious workers	Identity politics
	Public	Media
	Public, employers, other trade unions	Shaping benchmarks on employment standards
Consultation	Precarious workers, other unions	Services for empowerment
	Government, employers	Consultation and advice on legislation
Negotiation	Government, political parties, other unions	Political lobbying
	Employers	Collective bargaining
Organizing and industrial action	Precarious workers	Litigation
	Precarious workers, the public	Organization
	Precarious workers, other unions	Mobilization

### *Implications of unions' approaches and action for precarious work*

The final building block of the analytical framework focuses on the implications of trade union actions on precarious work. We study to what extent trade union actions empirically documented in the studied countries and sectors contribute to elimination, reduction, or retention of the status quo in precarious work forms.

#### ***1.4.2 Employers' associations (and their members) actions vis-à-vis precarious work***

In the context of the rise of precarious work, the debate has been predominantly one-sided in as much as some institutional actors, e.g. trade unions, have been featured extensively while others, e.g. employers' associations and individual employers, have been much less prominent. With respect to the lack of emphasis on employers' associations, this arguably reflects the historical focus of the industrial relations community on the role of trade unions and the respective lack of emphasis on employer coordination (Barry and Wilkinson 2011). More recently, employers' associations, like unions, have been affected negatively by structural changes to the economy that make organizing more difficult – such as the growth of employment in small firms in the service sector and shrinkage in large scale manufacturing (Traxler 2008: 237). But the role of employers' associations in the ongoing changes to industrial relations systems, including those related to the rise of precarious work, cannot be overemphasized. The need for firms to seek to combine and coordinate their actions to countervail employee power may be particularly strong during periods of economic and product market decline, where any contest over union market power is a contest over the division of profits (Barry and Wilkinson, 2011: 157, quoting Galbraith 1852).

In considering the role of employers' associations in dealing with issues related to precarious work, it is important first to acknowledge the reasons for the formation of such forms of coordination among employers. Three reasons have been advanced: the first is the need for employers to combine resources and power to counter the growing power of unions; the second is to seek to influence or to respond to government regulation; and the third is to attempt to manage competition among employers (Barry and Wilkinson, 2011).

Aside from paying attention to the organization of employers' associations internally, the relationship of employers' associations with the other industrial relations actors, e.g. the state and trade unions, is also crucial here. As Traxler has shown, the strength of organized business is heavily contingent on state regulation:

‘on the one hand, the need of the authorities to involve organized business in public policy increases with its bargaining power. On the other hand, the state creates this need by buttressing the membership base and the bargaining role of organized business through the provision of extension schemes’ (Traxler, 2010: 167).

The support of strong interlocutors in the form of trade unions is also important here (Streeck, 1987: 283). As such, changes in the regulatory capacities of each of these actors will have a bearing on employers' associations themselves.

The economic crisis provides an excellent ground to explore these issues. First of all, a number of industrial relations systems have undergone wide-ranging and far-reaching changes in labour market regulations as a result of austerity measures. In-

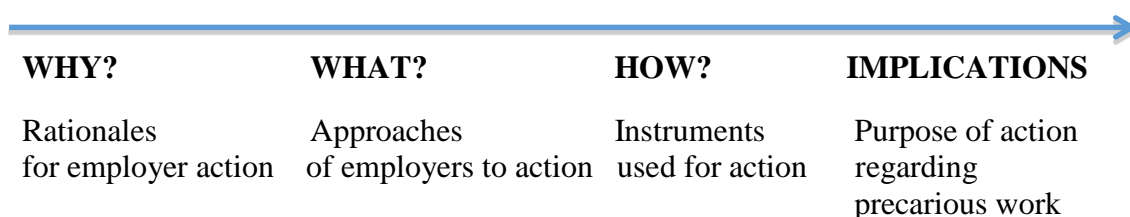
depth structural labour market measures have been implemented that are aimed not only at ensuring wage moderation but also at amending essential features of the industrial relations systems via changes in employment protection legislation and collective bargaining. In undermining the role of joint regulation by governments, the austerity measures have fundamentally challenged the regulatory capacities of employers' associations vis-à-vis other actors, mainly trade unions (Koukiadaki et al, 2016).

Recent work by Sheldon et al. (2014) found that bargaining decentralization trends can foster the emergence and elevated profile of competitors for associations through the rise of Human Resource Management (HRM) within companies and externally through the use of specialized legal practices and consultancies. In this respect, periods of crisis may throw new light on the role of employers' associations internally as well. In his seminal analysis of employers and industrial change, Streeck argued that in times of crisis, new developments in industrial relations, if any, will be dependent on entrepreneurs and not on the politicians of industrial relations: 'the collective interests of employers, and the objectives employers' associations are permitted to pursue, consist of little more than the freedom for individual firms to develop and pursue their own strategies' (Streeck, 1987: 283). Again, this has been evident in industrial relations systems mostly affected by the austerity measures, e.g. Greece and Romania, where interest aggregation has been biased towards the interests of large firms (in the case of Greece) and multinationals (in the case of Romania) (Koukiadaki and Kokkinou, 2016; Trif, 2016). History has shown that in times of crisis the initiative in industrial relations shifts to the employers (Strauss, 1984).

While this is the case, policy-level debates tend to focus predominantly on issues of organizational flexibility neglecting the implications of these for precarious work. As Rubery (2015) has recently argued, the policy debate around precarious work has largely concentrated on the role of social policy and has neglected the macro economic linkages between employment and social protection, reducing thus the function of employment regulation to that of social protection: 'in doing so, it lets employers who still remain the architects of employment arrangements off the hook by giving up direct attempts to change employer behaviour'. It is employers that are responsible as the core agents for deciding on the terms of employment engagement: it is employers' selection, investment and retention decisions that create segmented or divided labour markets (Osterman, 1994; Rubery, 2007). These divisions may be influenced by various forms of social stratification but it is employers' actions that reinforce and reproduce these divisions by, for example, restricting employment opportunities for those who do not conform to the ideal-type underpinning of the standard employment relationship concept of an independent and fully fit adult (Rubery, 2015). In emphasizing the role of employers, this approach contrasts significantly with the European flexicurity policy, which regards motivating employees to retrain as the main issue (Rubery, 2015).

Against this context, employers and their associations may react in specific ways to changes affecting precarious work (see Figure 3).

**Figure 3: Analytical framework for studying the role of employers' associations' (and their members') in shaping precarious employment**



*Rationales for employers' actions*

Bearing in mind the issues discussed above and in order to assess the role of employers and their associations in the rise of a dual labour market, it is important to then identify the considerations that firms may have in terms of the use of non-standard forms of work. At a broad level, a company's decision to engage in non-standard work will be influenced by its specific attributes, such as size, the industry in which it operates, the skill level of its workforce, its proprietary knowledge, the practices of competing enterprises, and the regulatory framework of the country in which it operates (ILO, 2015). The present study identifies four sets of rationales that may be taken into account by employers when dealing with the issue of precarious work (see Table 3). These are not independent rationales and organizations may adopt a specific approach to non-standard work for any one, or a combination, of these reasons.

**Table 3: Employers' associations' (and their members') rationales regarding the use of precarious work**

Rationales	Themes
<b>Economic</b>	<ul style="list-style-type: none"> <li>• Cost leadership strategy: labour costs as being the most important source of competitive advantage</li> <li>• Differentiation and innovation strategies: labour costs being treated among other sources of competitive advantage</li> </ul>
<b>Institutional (regulatory and moral)</b>	<ul style="list-style-type: none"> <li>• Regulatory</li> <li>• Normative</li> <li>• Cultural cognitive</li> </ul>
<b>Social</b>	<p>Social legitimacy and accountability to different stakeholder groups, including most notably:</p> <ul style="list-style-type: none"> <li>• Consumers</li> <li>• (prospective) Employees</li> <li>• Local community</li> <li>• Governments</li> </ul>
<b>Organizational</b>	<p>Arrangements being dependent on a number of considerations, including most notably:</p> <ul style="list-style-type: none"> <li>• Numerical flexibility</li> <li>• Functional flexibility</li> <li>• Production markets</li> <li>• Labour markets</li> </ul>

The first set of criteria will be based on economic considerations. The economics of capitalist firms are governed by the need to realize a profit (Streeck, 1987: 283). In this context, employers may engage in an analysis designed to assess the costs associated with choosing among different strategies and actions vis-a-vis precarious work. The work of Porter (2004) on the firms' competitive advantage may be helpful here (e.g. the distinction between cost reduction, quality enhancement and innovation strategies). At one extreme, firms may tend to rely on low labour costs to get a competitive advantage (e.g. in low-wage sectors, such as retail); this will then imply that employers will be in favour of promoting precarious forms of employment and will attempt in turn to influence their employers' association towards supporting such form of work at sectoral and higher levels.

At the other extreme, employers may wish to regulate and limit even the use of such forms of work when faced, for instance, with different conditions in product markets that emphasize investments in quality. In this case, they will be incentivised to seek the support of unions as active partners in reducing the prospect of competition on the basis of wages, the primary means being here the conclusion of collective agreements at higher sectoral/occupational or even cross-sectoral levels. It may be the case that differentiation here may be observed between large and small employers: large employers may seek to impose standard terms and conditions on their smaller competitors as a means to control market share (Silvia and Scroeder, 2007). Alternatively, no significant differences may exist between large and small firms: whilst large firms with internal labour markets may segment their employment systems with a view to reducing the costs of employer-provided benefits (Kalleberg, 2009), increases in the number of small and medium enterprises may mean that a common strategy between large and small firms may be possible.

The second set of criteria will be based on institutional considerations. In this respect, a distinction between 'regulative', 'normative' and 'cultural cognitive' aspects is considered (Scott, 2008: 50-59). The 'regulative' aspect refers directly to labour rights established in legislation; these will include those not only applicable to individuals engaged in precarious work but also those applicable to standard employment relationships, as the interaction between the two is important as well. At one extreme, a number of employers will be incentivized to comply with labour law. In this respect, consideration would be given also to the role of the state, in the form of enforcement authorities, resources for monitoring and access to justice by individuals/trade unions. At the other extreme, there may be cases of employers who (consciously) fail to comply as a means to gain a competitive advantage over other employers. Often, labour rights are no more than reflections of normative patterns (Purcell, 2012: 163). In his comparative work on precarious work, Barbier (2004) emphasized the importance of the 'normative system' expressed in regulations, collective agreements and firm practices. In this context, the issue of 'moral economy' (Granovetter, 2005: 433) may be also relevant here, especially when considering the role of employers' associations. This is because the extent to which members of the employers' associations have a strong sense of moral obligation to other members and a well-defined conception of what is proper behaviour with respect to the use of precarious forms of work will play a role when contemplating or acting upon issues related to precarious work. Finally, rules and norms regarding precarious work must be backed up by cultural beliefs to be viable. Hence, common beliefs, shared logics of action and isomorphism with respect, among others, to the use of precarious work by certain socio-economic categories and firm types will be important.

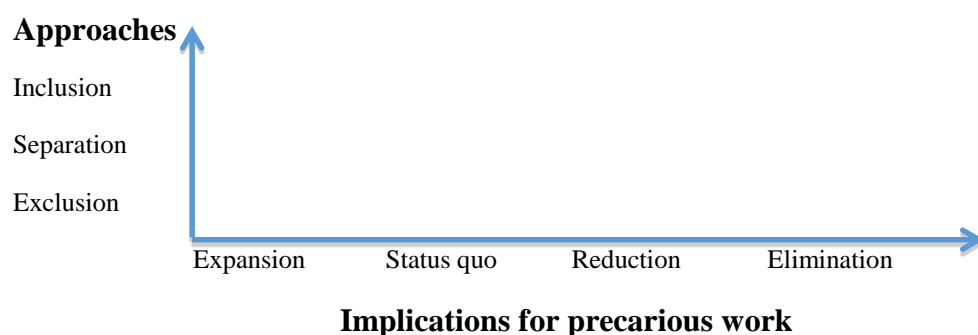
The third set of criteria will be based on social considerations. In this respect, the main consideration is centred around the notion of social legitimacy, e.g. ‘the need for employers to be seen to be ‘good citizens’ and to be concerned that accusations of poor conduct can have a deleterious impact on consumer choice, including gaining government contracts, and the ability to recruit and retain the most effective employees’ (Purcell, 2012: 163). As such, social legitimacy focuses on the range of stakeholders (e.g. which range from governments to prospective employees and consumers) that may be affected by and have an interest in the way organizations manage their workforce. At one extreme, employers may have an interest in maintaining their social legitimacy among those groups: this will be the case in sectors that may be exposed to ‘name and shame’ campaigns and other forms of social and civil mobilization on the part of unions, consumers and other stakeholder groups etc. (potentially) affecting reputation and trade. In the case of employers relying on government contracts, the existence of public procurement regulations that promote the incorporation of social clauses in procurement may have similar effects, e.g. force employers to pay attention to issues of working conditions. At the other extreme, social motivations may not be a significant consideration where firms are not (or do not perceive to be) at great risk of being exposed to poor working practices, e.g. where their reputation relies on low-value products/services or where the supply chain is so complex so as to lack transparency with respect to working practices (e.g. in the case of MNCs). Lack of attention to social legitimacy may not be deliberate, as competitive pressures and cost-pressures may have the effect of overriding processes designed to implement employment rights and marginalising labour standards (Purcell, 2012: 161).

The fourth set of criteria will concern organizational considerations. Evidence suggests that organizations use non-standard workers to attain numerical or functional flexibility. Workers are brought in at short notice to help the organization deal with seasonal demand (Harrison and Kelley, 1993) or with fluctuations in labour supply (Ko, 2003). But with shorter product cycles arising from just-in-time production, the ability to hire workers for short time periods provides organizations with numerical flexibility, enabling them to expand (or reduce) their workforce fairly rapidly. Organizations also attain functional flexibility when they are able to hire workers to deal with specific, typically short-term needs requiring special skills not available in-house (Kalleberg et al., 2003). Further, depending on the strategy adopted (see above economic considerations), employers may want to limit transactions costs that may arise from dealing repeatedly with renewals of non-standard contracts and the provision of training (e.g. in sectors where higher-levels of skills and the provision of training are required) and reduce the risk of conflict at workplace level.

#### *Employers’ approaches towards precarious workers*

Driven by these sets of considerations, employers’ associations and employers will respond in particular ways to the rise of non-standard work. As seen in Figure 4, these match those of the trade unions, as explained above. While in some cases employers and their associations may develop specific initiatives, it is important to acknowledge here that, ‘the notion of ‘initiative’ implies an element of strategic freedom which employers, under the imperatives of profitability and the need to keep control over the labour force, may just not have. Moreover, employers like any other social group may act either as individuals or as a collectivity, and the mode of action is likely to make a difference both for the objectives pursued and the resources available’ (Streeck 1987).

**Figure 4: Employers’ associations’ (and their members’) approaches towards precarious workers and implications for incidence of precarious work**



*Employers’ associations (and their members) instruments to implement approaches*

Based on the above considerations and options, we define the following sets of instruments (see Table 4) that employers have available as a toolbox for implementing their approaches and influencing the existence of precarious work forms (see Figure 4).

**Table 4: Employers’ associations’ (and their members’) instruments to implement strategies**

Category	Target groups of union action	Instruments
Information	Other employers	Informal coordination, gentlemen agreements on employer strategies
	Other employers	Identity politics – seeking support why more flexibility is needed
	Public	Media – campaigns for more flexibility (less likely than in the case of trade unions)
	Government, other relevant stakeholders (civil society)	Shaping benchmarks on employment standards – why more flexibility is needed
Consultation	Other employers	Meetings, joint statements, coordination of action
	Government, trade unions	Consultation and advice on legislation
Negotiation	Government, political parties, trade unions, other employers	Political lobbying for/against expansion of precarious work, for/against diverse forms of non-standard work, for/against new kinds of legislative instruments regulating precarious work
	Trade unions	Collective bargaining
Organizing (other) employers	Other employers	Litigation – legal compliance
		Organization in employers’ associations
		Mobilization

## **1.5 Concluding remarks**

The analytical framework provides a comparative way to account for the most relevant sector-specific and national-level developments in incidences, forms and regulations of precarious employment forms as well as the responses, strategies, actions and instruments of the social partners. Apart from job security dimension that differentiates between standard and non-standard employment relationships, this study investigates whether or not wages, working time, social security and employees' voice are precarious for workers on all forms of contracts, including those on standard employment contracts. By exploring whether those five quality of working conditions dimensions are precarious independent of the type of contract, this study goes beyond the equating precarious work with non-standard employment contracts.

In addition, it conceptualises the rationales, approaches and instruments used by trade unions and employers' associations (and their members) to deal with precarious employment. In doing this, it broadens the existing conceptual frameworks that tend to be predominantly one-sided in as much as some institutional actors, e.g. trade unions, have been featured extensively while others, e.g. employers' associations and individual employers, have been much less prominent. It argues that whilst both social partners have broadly similar rationales (economic, institutional, social and organizational) for dealing with precarious work, differences exist in terms of the degree of influence of these rationales upon specific strategies and actions. Furthermore, social partners have comparable approaches towards precarious works varying from elimination (more likely to be advocated by trade unions), to retaining the status quo or expansion (more likely to be advocated by employers) as well as similar instruments to implement their approaches varying from information, consultation, negotiation and organizing their members. Apart from enabling a qualitative account on comparative developments, it contributes to a better understanding of the actions of both social partners vis-à-vis precarious work, as it will be seen in the analysis of cross-national findings in the next three chapters.

## Chapter 2: Incidence of precarious work across countries

### 2.1 Introduction

This project investigates the role of industrial relations in addressing precarious work. It focuses on the initiatives and responses that trade unions and employers' associations developed to deal with precarious work in Croatia, the Czechia, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia since 2008. Nine of these ten EU members share a similar post-socialist legacy and transition to democracy and market economy in the course of 1990s. At the same time, they also reflect the diversity of industrial relations systems and precarious employment across the CEE region (Bohle and Greskovits, 2012). The institutional arrangements cover the entire spectrum of varieties of capitalism:

- (a) *neo-liberal countries* group consist of Latvia and Lithuania as well as Romania and Croatia; those countries are characterized by weakly established or enforced tripartite institutions and fragmented bargaining; nevertheless, as collective bargaining coverage and union density are higher in Romania and Croatia compared to the Baltic states, Bohle and Greskovits (2012) argue that the last two countries have a special type of neo-liberalism.
- (b) *embedded liberalism* group consists of the Czechia, Hungary, Poland and Slovakia; these Visegrad countries have strongly entrenched tripartism, institutions for collective bargaining and employee representation. Czechia and Slovakia tend to have greater tradition in social dialogue and a higher level of bargaining coordination than Poland and Hungary; respectively, Hungary and Poland have decentralized and low collective bargaining coverage.
- (c) *neo-corporatism* in Slovenia, which still has a degree of corporatist industrial relations arrangements, with coordinated bargaining, employee representation, social pacts and bargaining coverage (European Commission, 2012; Stanojević and Kanjuo Mrčela, 2016).
- (d) *state-centred market economy* in Greece; in contrast to most CEE countries, industrial relations in Greece before the crisis were highly structured and collectivized. At the same time, there was a growing proportion of workers that were unprotected by the collective bargaining system and labour legislation (Koukiadaki and Kretsos, 2012). Against this context, the profound sovereign debt crisis and extensive labour market reforms that have recently taken place have led to dramatic changes in the terms and conditions of employment as well as the collective bargaining institutions with implications for the extent and nature of the dual labour market (Koukiadaki and Kokkinou, 2016).

This project seeks to benchmark the social partner responses to precarious employment in the new EU Member States against developments in Greece, where social partners traditionally enjoyed greater mobilization and bargaining capacities. Nevertheless, Greece was the worst hit by the 2008 crisis. Consequently, the developments in precarious work in the nine new EU Member States will be benchmarked against the 'worst case scenario' in the old Member States concerning the effects of the 2008 crisis.

In each country, the study analysed developments in five sectors, namely public healthcare, the metal industry, construction, retail and TAW. The project used a qualitative approach to examine the dimensions of precarious employment, including low pay, irregular working hours, low job security and limited representation of workers' rights. Key informants representing trade unions, employers and other specialists were interviewed in each country to find out their views on how the social partners deal with precarious work in the selected sectors. The total number of interviews in each country varied between 10 in Slovenia (where there is less fragmentation of social partners) to 21 in Romania (Table 5). In-depth interviews were conducted mostly in 2015 with sectoral representatives of both trade unions and employers in the five sectors, where sectoral trade unions and/or employers' associations existed. If not, national level or other experts were interviewed. 168 interviews were conducted in total across the 10 countries (Table 5); over 20 respondents were interviewed in each of the five selected sectors; these were supplemented by 40 interviews conducted at the national level.

**Table 5: Summary of the number of interviews**

Country/ Sector	Construc- -tion	Healthcare	Metal	Retail	TAW	Across sectors/ National level	Total
Croatia	2	1	3	3	1	6	16
Czechia	2	3	3	2	3	2	15
Greece	2	3	2	3	3	6	19
Hungary	2	3	3	2	3	4	17
Latvia	3	3	3	3	2	4	18
Lithuania	3	4	1	1	0	6	15
Poland	3	3	3	4	2	5	20
Romania	3	3	3	3	2	7	21
Slovakia	2	6	3	2	4	0	17
Slovenia	2	2	2	2	2	0	10
<b>Total</b>	<b>24</b>	<b>31</b>	<b>26</b>	<b>25</b>	<b>22</b>	<b>40</b>	<b>168</b>

The comparative report is based on the findings reported in the national reports. While it addresses similar aspects as the national reports, the comparative report focuses on similarities and differences across countries. The comparative findings are streamlined into three themes, namely (1) the incidence of precarious work, (2) trade unions and precarious work and (3) employers and precarious work.

## 2.2 Incidence and forms of precarious work across countries

The first objective of the project is to identify and discuss developments in precarious work in the new EU Member States and Greece, as there is very limited previous research on precarious

work in these countries. In a context of labour market deregulation following the 2008 crisis (Koukiadaki at al., 2016; Marginson, 2015), it was expected that that employers would use their new prerogatives to reduce labour costs by increasing the share of non-standard contracts (outsiders), respectively reducing the share of standard contracts (insiders). This was reflected by the title of the project entitled '*The rise of the dual labour market: fighting precarious employment in the new Member States through industrial relations*'. Nevertheless, post-2008 labour market deregulation has also reduced the employment protection for employees on standard contracts in most EU countries (Koukiadaki at al., 2016; Marginson, 2015) primarily by increasing employers' prerogatives to use more flexible working time arrangements. Thus, it is unknown whether the labour market deregulation led to increased dualization between insiders and outsiders.

### ***2.2.1 Post-2008 changes in the regulatory framework***

Post-2008 legal changes combined with a reduction of joint regulation by social partners have increased the prerogatives of employers to use *internal flexibility* for employees on standard contracts in virtually all countries investigated (Table 6). *First*, the decline in individual employment rights gives employers more control over work schedule, ranging from making it easier to use overtime to irregular working hours. The recent legislation allows employers to increase or decrease the number of working hours per week contingent on employers' needs for standard employees (e.g. Greece and Romania). Also, it allows seasonal or annual time account (e.g. Czechia and Slovakia). *Second*, the reduction of collective rights in Croatia (to organise and bargain collectively), Greece (to organise, to bargain collectively and strike), Hungary (to strike, to bargain collectively and the abolition of a tripartite forum for conciliation), Romania (to organise, to bargain collectively and to strike) and Slovakia (limitation of union rights) have also provided employers more control over working time and wages (Table 6). *Third*, the job security of employees on standard contracts was reduced by legal changes that make it easier for employers to hire and fire employees in seven countries (except Croatia, Poland and Slovakia) (Table 6). Thus, the undermining of individual rights in all countries and collective rights in five (out of the 10 countries) has given employers more prerogatives to use internal flexibility, by reducing the protection of employees on standard contracts, particularly concerning wages, working time and job security (Table 6).

**Table 6: Trends in employment protection legislation post-2008 across countries**

	Standard contract (St)		Non-standard (N-St)		Overall
Country	Changes in individual and/or collective rights	What job quality dimensions are affected by legal changes? (dimensions affected most in bold)	Changes in individual and/or collective rights	What job quality dimensions are affected by legal changes? (dimensions affected most in bold)	Changes in internal and external flexibility
<b>Croatia</b>	↓ <b>Individual rights</b> (↓ social benefits ↓ working-time ) ↓ <b>Collective rights</b> (freedom to organise, bargain)	↓ protection of (b) <b>working time</b> ; (d) social benefits and (e) <b>voice</b>	↓ <b>Individual rights</b> (↑ scope for part-time, seasonal work, TAW) increased E control over wage for part-timers; ↑ <b>Individual rights</b> (scope and duration of fixed-term)	↓ protection of (a) <b>wages</b> ; (b) <b>working-time</b> ↑ protection of (c) job security;	↑ Internal flexibility ↓ External Flexibility
<b>Czechia</b>	↓ <b>Individual rights</b> (↓ hiring and firing, ↓ working-time )	↓ protection of (a) wages; (b) <b>working time</b> ; (c) job security	↓ <b>Individual rights</b> (↑ scope and duration of N-St contracts; ↑ working time for work agreements ) ; ↑ <b>Individual rights</b> (↑ social security for work agreements - still very precarious; TAW law - still below EU directive standards)	↓ protection of (b) <b>working-time</b> - maximum duration; (c) job security; ↑ protection of (d) <b>social benefits</b>	↑ <b>Internal</b> and ↑ external flexibility
<b>Greece</b>	↓ <b>Individual rights</b> (↓ wage levels , easier to hire and fire, irregular working-time ) ↓ <b>Collective rights</b> (freedom to organise, bargain and strike)	↓ protection of (a) <b>wages</b> ; (b) working time; - increased E control over work schedule & overtime; (c) <b>job security</b> and (e) <b>voice</b>	↓ Individual rights (↑ scope and duration of N-St contracts; reduced hourly rate for part-timers) Fixed-term not in line with EU directives ↓ <b>Collective</b> (TAW not entitled to bargain)	↓ protection of (a) <b>wages</b> ; (b) <b>working-time</b> - maximum duration; (c) <b>job security</b> ; (e) voice	↑ <b>Internal</b> and ↑ external flexibility
<b>Hungary</b>	↓ <b>Individual rights</b> (↓ hiring and firing for PA) ↓ <b>Collective rights</b> (abolition of tripartite forum for conciliation, freedom to strike, CA can derogate the LC in PA)	↓ protection of (a) job security; (e) <b>voice</b> - increased E control over work schedule & overtime	↓ Individual rights (↑ scope and duration of N-St contracts) TAW and Fixed-term not in line with EU directives	↓ protection of all dimensions (non-standard work is abused - not respectful of EU directives)	↑ <b>Internal</b> and ↑ external flexibility

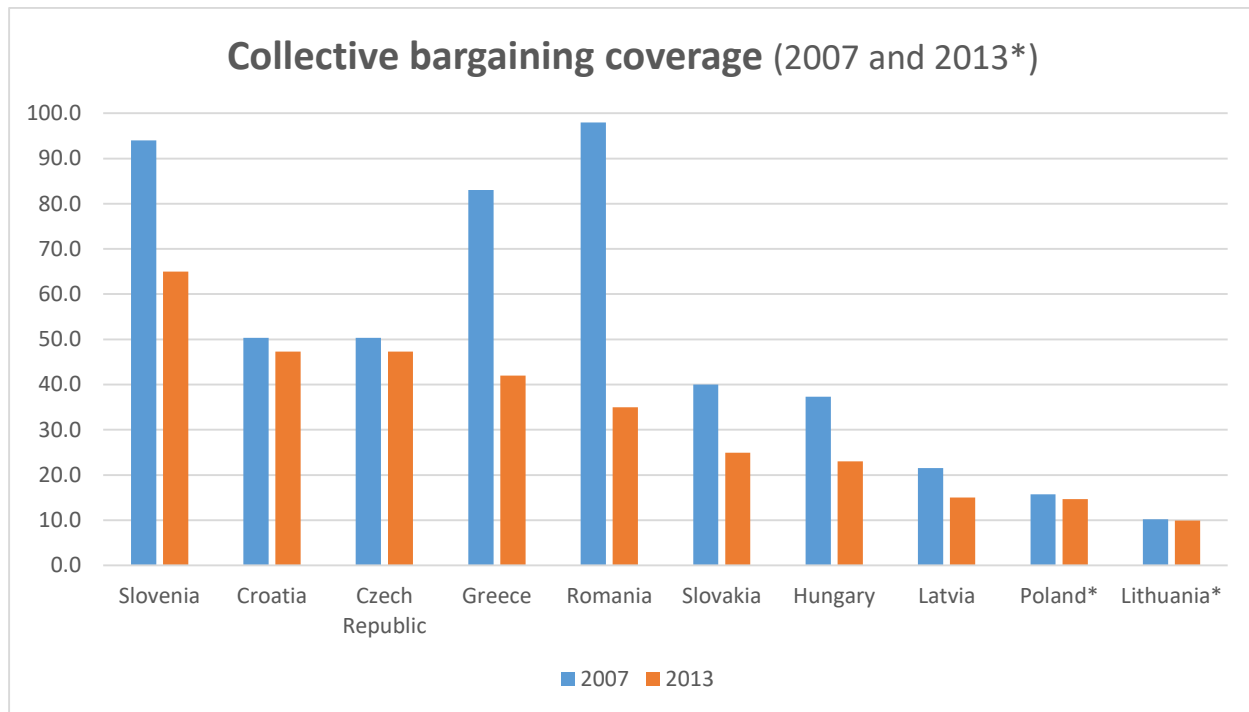
<b>Latvia</b>	↑ <b>Individual rights</b> (EU directive on working-time) - the standard contract is abused	↑ Individual rights (b) <b>working-time (c) job security</b>	↓ <b>Individual rights</b> (↑ scope and duration of N-St contracts) ↑ <b>Individual rights</b> (↑ EU directive on TAW) ↑ <b>Collective</b> (EU directive on collective redundancies)	protection of (c) job security ↓ (scope and duration of N-St contract) ↑ (EU directive on TAW); ↑ (e) voice (EU directive on collective redundancies)	=
<b>Lithuania</b>	↓ <b>Individual rights</b> (↓ hiring and firing - a reform of dismissal procedures is under consideration)	↓ protection of (c) <b>job security</b>	↓ <b>Individual rights</b> (↑ scope and duration of N-St contracts) ↑ TAW law	protection of (c) <b>job security</b> ↓ (scope and duration of N-St contracts) ↑ (EU directive on TAW) ;	↑ external flexibility
<b>Poland</b>	↓ <b>Individual rights</b> (↑ flexible working time)	↓ protection of (b) <b>working time</b>	↓ <b>Individual rights</b> (↑ scope and duration of N-St contracts) ↑ TAW law to reduce consecutive contracts	↓ protection of (c) <b>job security</b> ;	↑ Internal and ↑ external flexibility
<b>Romania</b>	↓ <b>Individual rights</b> (↓ hiring and firing, ↑ irregular working time and ↑ workload) and ↓ <b>collective</b> rights (↓ to organise, bargain and strike) since 2011	↓ protection of (a) <b>wages</b> ; (b) <b>working time</b> - increased E control over work schedule & overtime; (c) job security and (e) voice	↓ <b>Individual rights</b> (↑ scope and duration of N-St contracts) and ↓ <b>collective</b> rights (↓ freedom to organise and ↓ CB coverage) after 2011; ↑ TAW law 2015 to = prior 2011	↓ protection of (a) wages; (b) working time; (c) <b>job security</b> ; (d) social benefits; (e) voice	↑ Internal and ↑ external flexibility
<b>Slovakia</b>	↓ <b>Individual rights</b> (↑ flexible working time) and ↓ <b>collective</b> rights (↓ limitation of union rights)	↓ protection of (b) <b>working time</b> - (c) voice	↓ <b>Individual rights</b> (↑ scope and duration of N-St contracts) 2003-2009 ↑ <b>Individual rights</b> (↑ protection of TAW, fixed-term and work agreements) 2012-2015	↓ (c) job security; ↑ (d) <b>social benefits</b> ; ↑ (c) job security after 2012	↑ Internal flexibility
<b>Slovenia</b>	↓ <b>Individual rights</b> (↓ unemployment benefits, ↓ job security, ↑ flexible working time, ↓ overtime payments)	↓ protection of (a) wages; (b) <b>working time</b> (c) job security and (d) <b>social benefits</b>	↑ <b>Individual rights</b> (↓ scope and duration of N-St contracts, ↑ access to unemployment benefits and severance payments for fixed-term)	↑ (c) job security; ↑ (d) <b>social benefits</b>	↑ Internal flexibility

Legend: ↓= decreased; ↑=increased

In addition, the legal changes after 2008 facilitate the use of *external* flexibility by employers (Table 6). First, apart from lowering job security for employees on standard contracts and part-time employees, the legal changes made it easier to use different forms of fixed-term contracts, by broadening the scope for using temporary contracts and increasing the maximum duration of such contracts in most countries (e.g. Croatia, Greece, Hungary and Romania). Nevertheless, post 2008 legal changes provided more protection concerning job security and social benefits for non-standard workers in Slovenia. Also, major legal changes facilitating the use of the non-standard contracts started from the beginning of the 2000s in many countries (e.g. Poland and Slovakia). Second, the undermining of collective rights, particularly making it more difficult to organise non-standard workers (e.g. agency workers) and procedural rules concerning weakening of the statutory extension mechanisms of collective bargaining at sectoral level as well as potential derogations from sectoral collective agreements, reduced the voice and collective bargaining coverage of non-standard workers, which in turn affected their wages. Finally, although in several countries there has been an increase of protection of non-standard workers to make the laws in line with the EU regulations (Table 6), particularly concerning agency workers (e.g. Latvia, Lithuania, Poland, Romania and Slovakia), it is rather difficult to implement those changes, in a context of weak state capacity of law enforcement. By and large, the recent legal changes have increased the scope and duration of most non-standard contracts in all countries, making it easier to use external flexibility to deal with market uncertainty after 2008, except in Slovenia.

Moreover, employers got more control over the job quality dimensions for both standard and non-standard employees due to a *decline in the joint regulation* by the social partners of terms and conditions of work conditions in virtually all countries (Table 7). The largest decline of collective bargaining coverage has occurred in Romania and Greece, where the post-2008 legal changes have undermined the most the collective employment rights (Koukiadaki and Kokkinou, 2016; Trif, 2016). The weakening of collective rights also led to a considerable decline in collective bargaining in Slovakia and Hungary, while the large decline in collective bargaining in Slovenia was linked to the abolition of mandatory membership of employers to the Chamber of Commerce and Industry in 2006 (Table 7). Recent developments in collective bargaining resulted in lower cross country variation in collective bargaining coverage, due to a far higher decline in collective bargaining coverage in countries with higher collective bargaining coverage. More specifically, there has been a convergence across the 10 countries towards decentralised and uncoordinated collective bargaining which increases the prospect of precarious working conditions in all countries, but variation across countries still exist (Table 7). The decline in collective bargaining coverage has the potential to affect all five job quality dimensions for employees with standard and non-standard contracts, while allowing increased variation across and within sectors in each country.

**Table 7: Trends in collective bargaining coverage across the 10 countries**



Source: Bargaining coverage based on ICTWSS database (AdjCov) (Visser, 2016)

Note: \* Data from 2012 instead of 2013

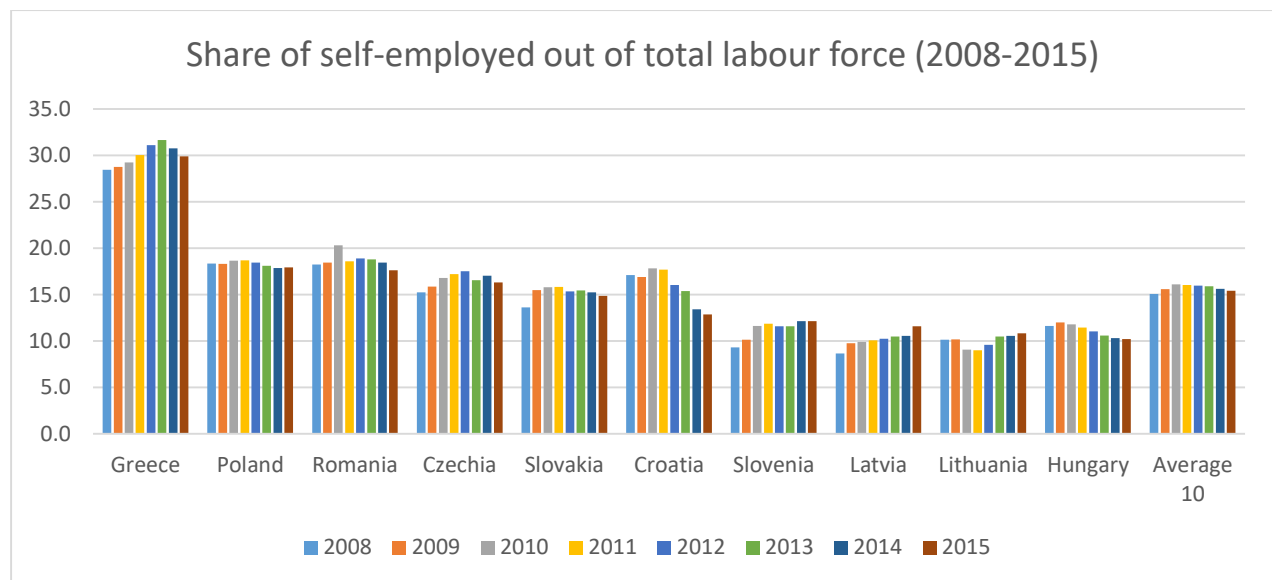
Apart from providing more flexibility to employers to set the selected job quality dimensions, the national reports indicate that the decline in joint regulation combined with legal changes that increase the prerogatives of employers to use flexible working time arrangements have facilitated the increase in different forms of informal work. In a context of a weak capacity of enforcement of labour laws by the state across all 10 countries, findings suggest that different forms of hybrid formal and informal practices have emerged for both standard and non-standard employees, varying from paying employees on standard contracts the minimum wage and an additional ‘cash in hand’ to bogus self-employment or no work contract at all. On the one hand, the legal changes that allow employers to use shorter or longer working week, make it more difficult for labour inspectors to verify whether or not the labour laws are enforced. On the other hand, the decline in collective bargaining and unions’ influence has reduced their capacity to safeguard the implementation of the labour laws at company level.

### **2.2.2 The impact of post-2008 regulatory changes on the precarization of work**

Despite the legal changes making it far easier to use non-standard work contracts, there has not been a considerable rise in the share of non-standard contracts across the 10 countries after 2008. *First*, the percentage of *self-employed*, which represent the highest share of non-standard contracts in Greece and most new EU Members States (unlike in most old EU Members States), has remained relatively stable since 2008; there was a 0.4% increase from 2008 to 2015 as a share of total labour force on average across the 10 countries (Table 8). The ratio of self-

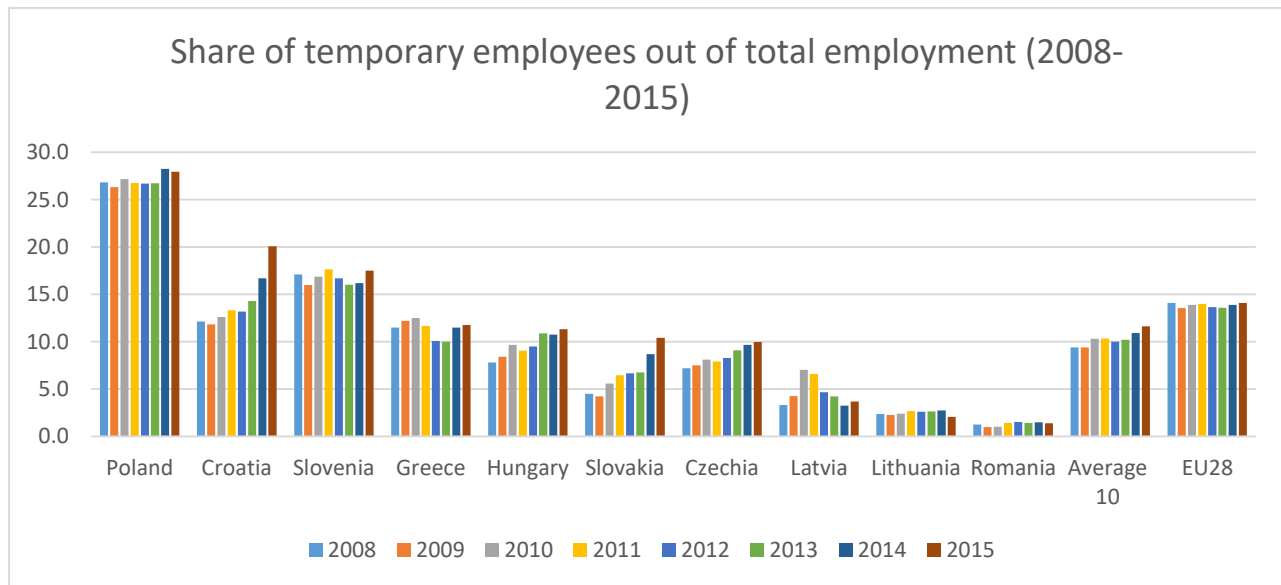
employed has increased mostly in Latvia and Slovenia, where there has been an increase in protection of other forms of non-standard contracts (e.g. agency workers), while their share declined the most in Croatia, where other forms of temporary contracts have increased the most (Table 9). *Second*, the share of other forms of temporary contracts have increased by 2.2% on average in the 10 countries between 2008 and 2015 (Eurostat, 2016). There is great variation in the use of temporary contracts of employment varying from 28% in Poland to 1.4% in Romania (Table 9). Also, the increase in the use of temporary contracts after 2008 varied from 8% in Croatia and 6% in Slovakia to under one percent in Romania, Greece and Slovenia (see Table 9). Interestingly, the latter group of countries had the highest decline in collective bargaining coverage since 2008, which could have contributed to a rise in internal flexibility for standard contracts. Overall, there has been an increase in the use of temporary contracts after 2008, which inherently have lower job security than open ended contracts, but it was lower than expected considering the major legal changes supporting external flexibility.

**Table 8: Trends in self-employment across countries (2008-2015)**



Source: Eurostat (2016) [lfsa\_eftpt]

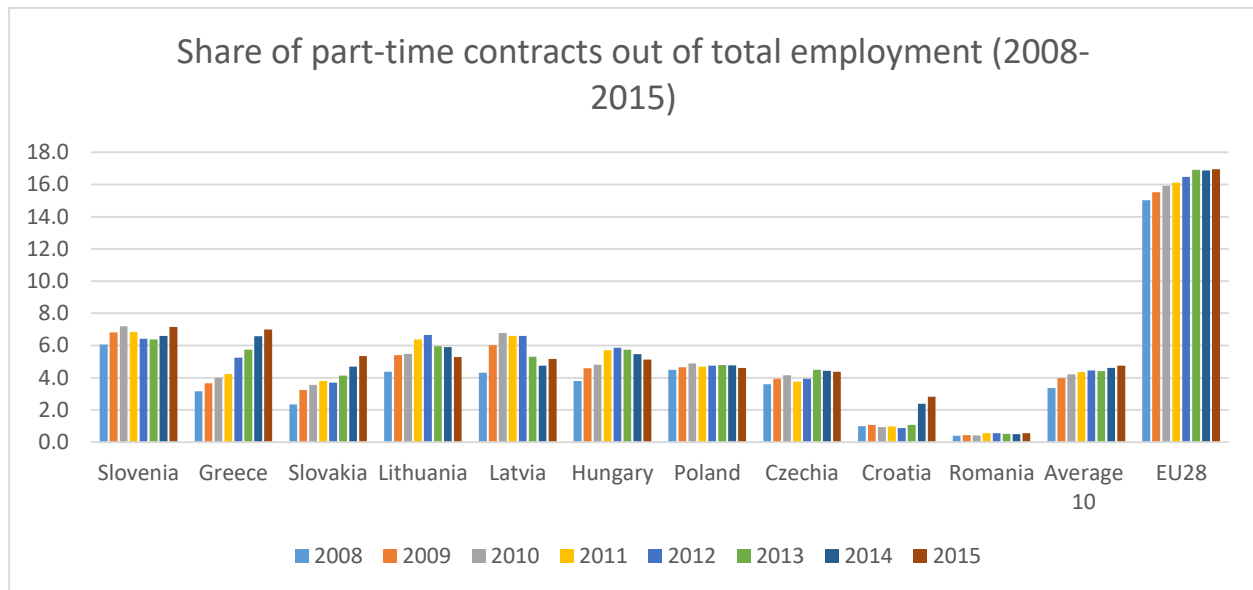
**Table 9: Fixed-term contracts across countries (2008-2015)**



Source: Eurostat (2016) [lfsa\_eftpt]

In addition, there has been rather limited increase in part-time contracts across the 10 countries investigated. The share of part-time contracts increased by 1.4% on average in the 10 countries between 2008 and 2015 (Table 10). Unlike in most of the old Member States, where part-time contracts are the most common non-standard form of employment (representing 17% of total contracts of employment in 2015), the share of part-time contracts is more than three times lower on average in the new EU Member States (table 10). Furthermore, the findings suggest that part-time contracts are often used in disguise for full-time contracts in order to pay lower taxes in some countries (e.g. Croatia, Greece, Lithuania, Slovakia and Romania). This might explain the peculiar fact that in Romania, men are as likely as women to have part-time jobs. Findings across the 10 countries suggest that employees cannot afford to work part-time due to the low level of wages. The main precarious dimension of part-time work is low wages, while the increase in part-time jobs is primarily explained by declaring full-time jobs as part-time to pay lower taxes. Nevertheless employers have also reduced the working hours for standard contracts from eight hour per day to part-time contracts arguing that employees are more efficient in the first 5-6 hours of work, particularly when they have to do repetitive jobs and/or have to lift heavy loads (e.g. in the retail sector) in some countries (e.g. Slovenia and Lithuania). Hence, part-time work is sometimes used as a form of *internal* flexibility for standard contracts.

**Table 10: Part-time contracts across countries (2008-2015)**



Source: Eurostat (2016) [lfsa\_eftpt]

Summing up, unlike in most old EU member states, the self-employed represent the largest category of non-standard workers, followed by temporary employees and part-time contracts in the 10 countries investigated, including Greece. Overall, the Eurostat data (2016) shows a slight increase in external flexibility, particularly in relation to the use of temporary contracts. These developments suggest an increase of precarization along job security dimension, while it is unclear whether other job quality dimensions have been affected. Moreover, standard forms of employment dominate in all 10 countries investigated; their average share of full-time contracts out of total employment is 77.4%, which is 10% higher than the average in the EU 28 (Eurostat, 2016). Consequently, it is important to examine to what extent employers have used their new legal prerogatives to worsen the terms and conditions of employment for employees (or workers) on both standard and non-standard contracts in the 10 countries. The next section discusses the interplay between the use of external and internal flexibility across countries in the five sectors investigated based on the qualitative data.

### 2.3 Trends in work precariousness across countries in the selected sectors

Empirical findings suggest that there has been a rise in work precariousness by increased use of internal and external flexibility in all countries after 2008, but there is variation across sectors and countries. In all countries, the construction and retail sectors have the highest incidence of precarious work, while the healthcare and metal sectors the lowest level of precarization. The nature of the TAW sector as a supplier of labour force for user companies in different sectors makes it contingent on the working conditions in the user companies, which leads to great variation in the quality of their working conditions, except the inherited job insecurity. While agency workers are generally employed on temporary contracts to ensure external flexibility for

other sectors, standard contracts are dominant in all the other sectors across the 10 countries investigated.

There are many similarities in the development of precarious work in the **construction sector** across the 10 countries. The construction sector was the worst hit by the 2008 recession, which led to increased use of both internal and external flexibility by employers across countries. Apart from its inherited precariousness due to seasonal work and heavy physical work, the construction sector is characterized by long subcontracting chains aiming to reduce labour costs to improve the prospect of large companies to get the big construction projects, as often the procurement procedures favours the lowest bid (e.g. Latvia and Romania). In virtually all countries it was reported that there was an *increase in external flexibility* by a rise in the use of non-standard forms, including informal work (without a contract) and (bogus) self-employment, particularly at the bottom of the sub-contracting chains. The main job quality dimensions affected are the lack of job security, irregular working time, commonly no social benefits, no voice and uncertainty concerning the income. Also, the lower tiers in the sub-contracting chains are the most likely to be paid late or not paid at all when companies in upper tiers get bankrupt (e.g. Croatia, Greece and Romania). Nevertheless, it was reported that in some countries, workers without a contract received higher wages than those with a contract, as employers and workers do not pay relevant taxes. Overall, findings suggest a major increase in external flexibility by the proliferation of informal work, self-employed and other forms of contracts based on the duration of project.

In addition, there has been an *increase in internal flexibility* for employees on standard contracts in all 10 countries. First, the recession combined with the reduction of collective bargaining coverage has led to lowering wages across all countries, particularly for low skilled employees. In Greece, employees on standard contracts had wage cuts up to 70%, late payments and compulsory unpaid leave. There were also wage reductions, at least for the declared wages, in the other countries; most employees were paid the minimum wage, while some of them got additional cash in hand to avoid paying the relevant taxes in some countries (Hungary, Latvia, Lithuania, Poland and Romania). Second, employees on standard contracts frequently work irregular working hours, while in some countries employers register full-time workers as part-time workers to reduce the amount of taxes paid (e.g. Croatia, Latvia and Romania). Third, the hybrid legal and illegal forms of payment reduce the contribution to social benefits, including pensions for employees on standard contracts. Despite labour shortages due to emigration to the old EU Member States, there has been a 'race to the bottom' in terms of the quality of working conditions by an increase use of both internal and external flexibility in the construction sector, for most workers. Nevertheless, the worst affected workers were those doing low skilled jobs in small companies that were at the bottom of the sub-contracting chains.

Apart from construction, the **retail sector** is one of the most precarious in all 10 countries. Unlike developments in the construction sector, the increased precariousness in the retail is primarily due to increased *internal flexibility*, but there is variation across countries. Employers in the retail sector have used their new prerogatives to increase internal flexibility by a combination of wage cuts, increased in workload and irregular working time for employees on standard contracts. Labour costs were reduced in different ways; apart from wage cuts for all workers, in some countries, all new employees get the minimum wage (e.g. Greece and Romania) or less than minimum wage (e.g. Poland); also, in some countries employers do not pay the overtime work (e.g. Croatia, Greece and Lithuania). Moreover, in several countries it was reported a

considerable intensification of work (e.g. Hungary, Lithuania and Romania), which in turn led to an increased in the number of accidents at work (e.g. Lithuania). Moreover, retail employers in Slovenia have reduced the working hours to increase labour productivity, as productivity tends to fall after five hours of work when doing repetitive tasks. Moreover, irregular working time has been used to increase flexibility on standard contracts (e.g. the daily working schedule could vary greatly contingent on the needs of the firms), including compulsory work during week-ends and other public holidays. Finally, there is limited union representation of the retail workers in most countries, primarily due to extremely high fluctuation of labour. Thus, low wages, irregular working time and the lack of voice are the main precarious dimensions for employees on standard contracts in the retail sector.

In addition, there has been a slight increase in *external flexibility* by using more temporary and part-time contracts in most countries. At one extreme are developments in Poland, where over a third of the total labour force have temporary contracts and circa are 20% self-employed (Eurostat, 2016); nevertheless, there have been rather marginal changes after 2008; the share of temporary contracts has increased by 2.7% between 2008 and 2014, while the share of self-employed has declined by 1.2% after 2008 in Poland (Eurostat, 2016). Moreover, in Greece there was a considerable growth of non-standard contracts after 2008, particularly the share of part-time contracts doubled between 2008 and 2015 (from under 5% in 2008 to over 10% in 2015). At the other extreme are developments in Romania, with over 97% of the total labour force working full-time and a decline in the share of non-standard contracts post 2008; the share of self-employed has been reduced from 15% to 10% between 2008 to 2014, while the share of part-time contracts declined from 2.5% to 1.6% over the same period (Eurostat, 2016). In most of the other countries, the share of part-time contract has increased, but sometimes part-time contracts were used to disguise the full-time contracts to reduce the payment of taxes (e.g. Croatia, Greece and Latvia). Despite an increase in the use of non-standard contracts in many countries, the increase in work precariousness post 2008 in the retail sector is primarily due to low wages, irregular working time and increased workloads for all workers independent of the type of contact, and not necessary along job security.

Somewhat surprisingly considering the inherited job insecurity, by and large, workers in the **TAW** sector appeared to have less precarious working conditions than those working in the retail and construction sectors, but there is great variation in the job quality dimensions within the sector and across countries. This sector is rather unique due to several inter-related reasons: (a) it was developed relatively recently in CEE; the share of agency workers has increased considerably since 2008 in most countries, while it seems to be still relatively small; nevertheless, the statistical data is not reliable, as TAW is generally not considered a distinct sector; (b) there is great variation in the terms and conditions of employment even for a specific worker, contingent on working conditions in different user companies; (c) the EU regulations have led to an improvement of the legal protection of agency workers after 2008 in most CEE, but the legal provisions are frequently abused (e.g. Czechia, Greece, Hungary, Latvia, Poland and Romania); and (d) temporary agencies in some countries post workers abroad (e.g. Latvia, Slovakia and Romania), which adds an international dimension to it.

As TAW sector generally supplies agency workers for companies operating in other sectors (and other countries), it primarily facilitates a rise in *external flexibility* to deal with fluctuations in the market demands.

- First, as temporary contracts represent the dominant employment form, job insecurity is a key precarious dimension for agency workers. Nevertheless, as both workers and employers prefer to have a degree of certainty, often agencies find ‘innovative’ (semi-legal) ways to increase the legal maximum duration of temporary contracts by shifting workers from one agency to another, while the worker continues to work with the same company (e.g. Romania) or the legal provisions concerning the maximum duration of the contract are not applied (e.g. Greece, Poland).
- Second, agency workers’ wages are often (but not always) lower than those of similar employees in the user companies, despite recent legal changes in many countries that require equal treatment of the two categories of workers (e.g. in Czechia it was reported that equal treatment rules are not enforced by up to 50% of user companies, while in several other countries abuses were reported). In addition, in some countries agency workers are paid the minimum wage, while additional payments are made in other forms, such as subsistence allowance, which are exempt from tax and social contributions (e.g. Slovakia and Romania – for posted workers). The substitution of wage to other forms of payment affect workers’ pensions and other entitlements to social benefits. Nevertheless, the wages of the agency workers also depend on their skills and the type of jobs that they are employed to do. Although generally agencies provide labour force to work in low skilled jobs in the metal, retail, hospitality and cleaning sectors, the higher the skills required for the job the more likely is that they would be paid above the wages for the user companies employees (e.g. in Romania it was reported that circa 10% of the agency workers are paid more than the user companies workers doing similar jobs; also, a minority of agency workers may occupy very senior managerial positions either by replacing senior managers on annual leave or when MNCs set up new subsidiaries). Finally, the average wages for agency workers in Lithuania is significantly higher than the national average wages. Hence, there is great variation across countries and within the TAW sector regarding the quality of working conditions.
- Third, the vast majority of agency workers are not unionised and do not have a voice, which often affects all the other job quality dimensions; also, the lack of unionisation makes it easier for some agencies to use illegal work practices (labour laws are less likely to be implemented in non-unionised companies) which, apart from affecting workers, it leads to unfair competition amongst agencies.

In addition, agency workers are sometimes utilized to reduce labour costs in the user companies by subcontracting specific business operations (e.g. form IT and payroll services to cleaning and transportation of goods). Consequently, the use (or the threat of using) agency workers has led to a rise in *internal flexibility* in relation to job insecurity, lower wages and irregular working time for employees on standard contracts in the user companies (e.g. IT and automotive industries in Hungary and Romania).

Although agency workers contributed to an increase in external (and sometimes internal) flexibility for user companies, findings suggested that the quality of their working conditions is not as precarious as it could be expected. Unlike workers in the construction and retail sectors, agency workers were more likely to find work after 2008. Also, it was reported that agency workers in low skilled jobs may get more training as well as more diverse tasks than low-skilled (standard) employees, by working in different companies. Last but not least, there has been in

increase in the legal protection of agency workers after 2008 in most countries, seeking generally equal treatment of agency workers with standard workers doing similar jobs in the user companies (except job security). Nevertheless, those legal regulations are often abused. Also, agency workers have high job and income security, which makes their life more difficult, particularly in the long term (e.g. apart from lower contributions to social security, it makes it virtually impossible to get a mortgage to buy a house).

Although the quality of working conditions in the **metal** sector is generally less precarious than those in the TAW, retail and construction sectors, there has been an increase in both internal and external flexibility in most countries after 2008. Unlike the other sectors investigated, the metal sector is closely integrated into the global market, particularly the automotive and steel industries. As a result, the global recession has led generally to a reduction of demands in the first years of the recession, which in turn led to a considerable reduction of the labour force in most countries. In this context, employers used both internal flexibility and external flexibility. Different from other sectors, the increase in *internal flexibility* has been primarily linked to different forms of irregular working time. Annualised working hours were introduced first in the automotive industry in Czechia, Hungary and Slovakia and then in other sectors. Also, a shorter-working week was adopted after 2008 in Croatia, Greece, Lithuania and Romania; in Hungary, there was no extra payment for overtime or week-end work. While many companies got bankrupt during the recession, wages were generally not reduced for employees on standard contracts working in large companies that remained profitable after 2008. However, there have been delays in payments of wages in Croatia and Greece, and in some countries, suppliers to large companies (generally smaller companies) provide lower wages (e.g. Latvia, Lithuania and Romania). Also, health and safety issues were reported in Latvia and Lithuania. Nevertheless, union density in the metal sector is generally higher than in the other private sectors investigated. Thus, there has been an increase in internal flexibility across countries, primarily through irregular working time.

In addition, *external flexibility* in the metal sector has increased primarily by a rise in the use of agency workers and sub-contracting or outsourcing. The national reports indicate that the metal sector is amongst the highest users of agency workers in most countries (e.g. 76% of agency workers were employed in the metal sector in 2014 in Czechia, an increase from 63% in 2009). In Croatia for instance, the share of different forms of temporary contracts in the metal sector was almost doubled reaching 20% in 2014. Apart from job insecurity, outsourced and agency workers have lower wages (e.g. up to 50% in Poland; up to 30% in Romania); also, agency workers have lower (if any) contributions to social security and generally are not unionised. Somewhat surprisingly, temporary contracts have also become the norm for newly hired workers between 2009 and 2013 in Slovenia, as employers could pay them less than employees on standard contracts; nevertheless, the legal changes of 2013, which require equal treatment of temporary employees with those on standard contracts, have reduced the use of fixed term contracts after 2013 in Slovenia. By and large, the increased external flexibility has also led to an increased internal flexibility, but the existence of relatively stronger unions has limited the reduction of wages in the metal sector for employees on standard contracts.

Unlike in the metal sector, the austerity measures applied in the public **healthcare** sector led primarily to increased *internal flexibility* by reducing wages and increasing the workload for employees on standard contracts. There have been successive waves of major restructuring of public healthcare services since the 1990s in all 10 countries, seeking to improve the use of the

scarce financial resources in a context of relatively high public spending. Apart from a fragmentation of the administration of public hospitals, restructuring also led to the privatization or outsourcing of non-core services in some countries (e.g. Greece, Hungary and Poland) as well as an increase in privatization of certain hospitals and core services (e.g. Greece, Poland and Romania). In the context of the crisis, the healthcare public spending decreased, particularly in countries that introduced austerity measures (e.g. it decreased from 6.3% in 2008 to 3.9% in 2015 in Greece), which led to wage cuts for employees on standard contracts (e.g. wage cuts were up to 40% in Romania). In some countries, nurses and other medical specialists are paid minimum wage or close to minimum wage (e.g. in Romania, it was reported that circa 60% of healthcare employees on standard contracts are paid minimum wages; in Lithuania nurses are paid close to minimum wage). Moreover, in most countries nurses are unhappy with the low wage levels (e.g. Czechia, Slovakia, Hungary and Romania), particularly in a context of increased workload after 2008.

Apart from wages, the working time and the remuneration of irregular working hours for employees on standard contracts have become more precarious after 2008 across the 10 countries. The labour shortages (often associated with emigration of doctors and nurses into the old Member States) and virtually an employment freeze after 2008 in some countries (e.g. Greece, Romania and Slovenia) have led to increased workload and resulted in longer working hours. In Hungary, it was reported that it is impossible for many nurses to take a lunch break due to staff shortages, while in Romania nurses often have to work unpaid overtime in hospitals to ensure patient safety. Also unpaid overtime is an issue of contention in Croatia. Apart from working long hours, sometimes above the maximum legal regulations (e.g. Greece and Hungary), 24/7 service provided by hospitals, including shift work, night work, week-ends and public holidays are sometimes overlooked precarious features of the working conditions in the healthcare sector. It was reported that circa 60% of the labour force in Slovenia has non-standard or flexible working time in the healthcare sector, which affects the work-life balance of employees.

In addition to internal flexibility, in some countries there has been an increase of *external flexibility*. First, the shortage of medical staff combined with low wages has led to the emergence of hybrid forms of employment. In several countries, doctors and nurses on standard contracts in the public sector have a second job as self-employed or other forms of non-standard contracts in the private sector; it is estimated that 2/3 of nurses have a second job in Poland, while second jobs for medical staff were also reported in Czechia, Latvia, Romania and Slovakia; furthermore, it was revealed that doctors may have three jobs in Latvia. Medical staff with multiple jobs work very long hours, which may affect the quality of the services provided. Second, there has been an increase in subcontracting and outsourcing in some countries, particularly for non-core services (e.g. Greece, Hungary and Poland). The subcontracting firms often pay their workers lower wages than those of workers in the user companies (e.g. wages up to 70% lower wages for workers employed by subcontracting firms in Greece) and have lower job security. Finally, other non-standard forms of contracts have increased, such as self-employed in Poland (circa 75% of doctors are self-employed), and fixed-term contracts in Slovakia (the new contracts are generally fixed-term) and Slovenia (approximately 15% of the total labour force has non-standard contracts, mostly temporary contracts). Nevertheless, in Romania and Croatia, the share of temporary contracts has declined after 2008; there was a decline from 10% of the total labour force in 2008 to 6% in 2014 in Croatia, but this reduction was primarily due to the fact that many employees on fixed-term contracts lost their jobs after 2008. Despite a degree of increase in

external flexibility in the healthcare sector, the precarization of work after 2008 was primarily due to increased internal flexibility in the form of lower wages and work intensification, including longer (often unpaid) working hours for employees on standard contracts. There has been far more limited precarization along job security in the healthcare sector compared to the other sectors investigated, due to more severe labour shortages in many countries as well as the fact that the demand for medical services did not decline during the recession.

Somewhat surprisingly, the overall findings suggest that insiders versus outsiders dualization contingent on job security is not the main reason for increased precariousness of work in the 10 countries investigated. Instead, the erosion of working conditions for workers on standard contracts since 2008, particularly in relation to wages and working time, is the main cause of the rise of work precariousness in all 10 countries investigated. Nevertheless, the use of internal flexibility (and its consequences for job dimensions) varied across sectors; the increased use of internal flexibility has the dominant contribution to a rise in precariousness in the retail and healthcare sectors, while a combination of increased internal and external flexibility has increased work precariousness in the construction and metal sectors. The crisis led to an increase in the share of agency workers in the 10 countries, which in turn, has increased external flexibility for other sectors (e.g. metal, retail, IT etc) as well as internal flexibility in some user companies. Unlike developments in the other sectors, there has been an increase in the legal protection of agency workers in recent years requiring equal treatment of agency workers with user company workers, but there have been reports of issues with law enforcement in several countries (e.g. Czechia, Latvia, Poland, Romania and Slovakia). Overall, the combination of legal deregulation and decline of joint regulation has led to an increase in the informal and grey work practices since 2008, which is a major concern for both (most) employers and trade unions.

## **2.4 Concluding remarks: varieties of dualization and precarization**

The 2008 international economic crisis combined with the transition to liberal market economies and the EU accession process of the nine CEE countries, have contributed to reshaping the labour legislation, which in turn affected the level of labour market dualization and work precarization. Considering the changes in the gap between the quality of working conditions for employees on standard and non-standard contracts after 2008, the 10 countries investigated can be grouped into three categories, as follows:

### *(1) Reduction of dualization in Hungary, Greece, Romania and Slovenia.*

There has been a *reduction* of labour market dualization in Hungary, Greece, Romania and Slovenia after 2008 due to the erosion of working conditions for employees on standard contracts, by weakening of employment protection legislation (Table 6) and a massive reduction of joint regulation by social partners (Table 7). Although the legislation makes it also easier to use non-standard contracts (except in Slovenia after 2013), particularly by increasing the scope and duration of temporary contracts, by and large, employers have been more likely to use internal flexibility to deal with fluctuations in demand, particularly in a context of labour shortages. Furthermore, the dualization may also be lower due to the fact that workers with non-standard forms of contracts were most likely to lose their jobs during the crisis. Although there is a degree of variation across countries and sectors in the share of level of non-standard forms

(including illegal work) and the quality of working conditions in the four countries, the increased use of internal flexibility played a key role in the precarization of work in those countries.

Despite having different national institutional arrangements across the four countries (Bohle and Greskovitz, 2012), by and large, the 2008 crisis was used as an opportunity to undermine individual and collective employment rights. The deregulation of standard contracts reduced labour dualisation at the detriment of the insiders, while it, generally, led to increased precariousness for workers on both standard and non-standard contracts. Nevertheless, there was an increase in the legal protection of non-standard workers after 2013 in Slovenia, which also contributed to the reduction in dualization. Precarious work developments in Greece were rather similar to those in CEE, which may suggest that the 2008 crisis and the subsequent austerity measures recommended by Troika in three out of the four countries (except Slovenia), had a crucial impact on labour market developments. Nevertheless, Greece shares with CEE a high degree of legal intervention in the regulation of the labour market, including having a Labour Code, which makes it easier for governments (sometimes obliged by supra-national institutions) to deregulate the labour market in a context of a crisis. Furthermore, Greece has the highest share of self-employed in the EU, which is far more common in the CEE. Thus, developments in precarious work in Greece appears to be more similar to those CEE than those in the old EU Members States.

## 2) *No change* in Latvia and Lithuania

Second, there have been very limited changes in the level of labour market dualisation in Latvia and Lithuania after 2008, primarily due to strengthening protection for non-standard workers, while relaxing job security for standard employees. This approach was neutral in terms of dualisation. Nevertheless, the standard contract is characterised by low wages, long working hours, low social security and *de facto* very limited voice. Unlike in the first category of countries, there was no decline in joint regulation, as there has been very low union density and collective bargaining coverage since the 1990s in the Baltic States. Similar to developments prior 2008, working conditions are contingent on employers' 'good will' and 'sense of ethics'. Interestingly, the increase in the legal protection of non-standard workers has led to increased use of informal practices, in a context of very weak consolidation and influence of the social partners. National legal interventions, if anything, have increased informal employment during the crisis.

## 3) *Increased dualization* in Croatia, Czechia, Slovakia and Poland

Third, there has been an increase in labour market dualization in Croatia, Czechia, Slovakia and Poland, primarily due to a rise in the share of non-standard contracts. By and large, the post 2008 legislation makes it easier to employ workers on non-standard contracts in these countries, while there have been limited changes concerning joint regulation and legal provisions for employees on standard contracts. While most new contracts are non-standard in those countries, there has been an increase in flexible working time arrangements and workload for core employees, similar to developments in the other two categories of countries.

Summing up, although there has been a rise in non-standard forms of employment in some countries investigated, the findings across the 10 countries investigated indicate that the main reason for the rise in work precariousness is the **deterioration of working conditions for employees on standard employment contracts**, in a context of an erosion of industrial relations institutions. Despite a rise in precariousness, there was not necessary a growth of dualization

between insiders and outsiders across the 10 countries. The varieties of dualization are primarily contingent on legal changes adopted by governments (sometimes linked directly to international policies e.g. austerity measures agreed with the Troika, EU accession process, EU Directives) and the joint regulations by the social partners, and not necessarily determined by the type of institutional arrangements in each country (Bohle and Greskovitz, 2012).

## **Chapter 3: Trade unions and precarious work**

### **3.1 Introduction**

The second key objective of this project is to examine the role and influence of trade unions in addressing precarious work in CEE and Greece. In a context of increasing labour market deregulation (chapter 2) combined with a decline in union density after 2008 (Visser, 2016), trade unions are faced with the dilemma on whether to use their limited resources to defend the rights of the core workers on standard contracts, who are generally the main category of union members (insiders) and/or those of workers on non-standard contracts, who are rarely union members (outsiders), but often have the most precarious working conditions (Heery, 2009). Furthermore, findings show that there has been an increase in work precariousness after 2008 for many workers on both standard and non-standard contracts in the 10 countries investigated (chapter 2). These developments suggest that, by and large, unions have not been very effective in protecting workers' rights, but there has been variation across countries and sectors. This chapter examines under which conditions trade unions were able to address precarious work?

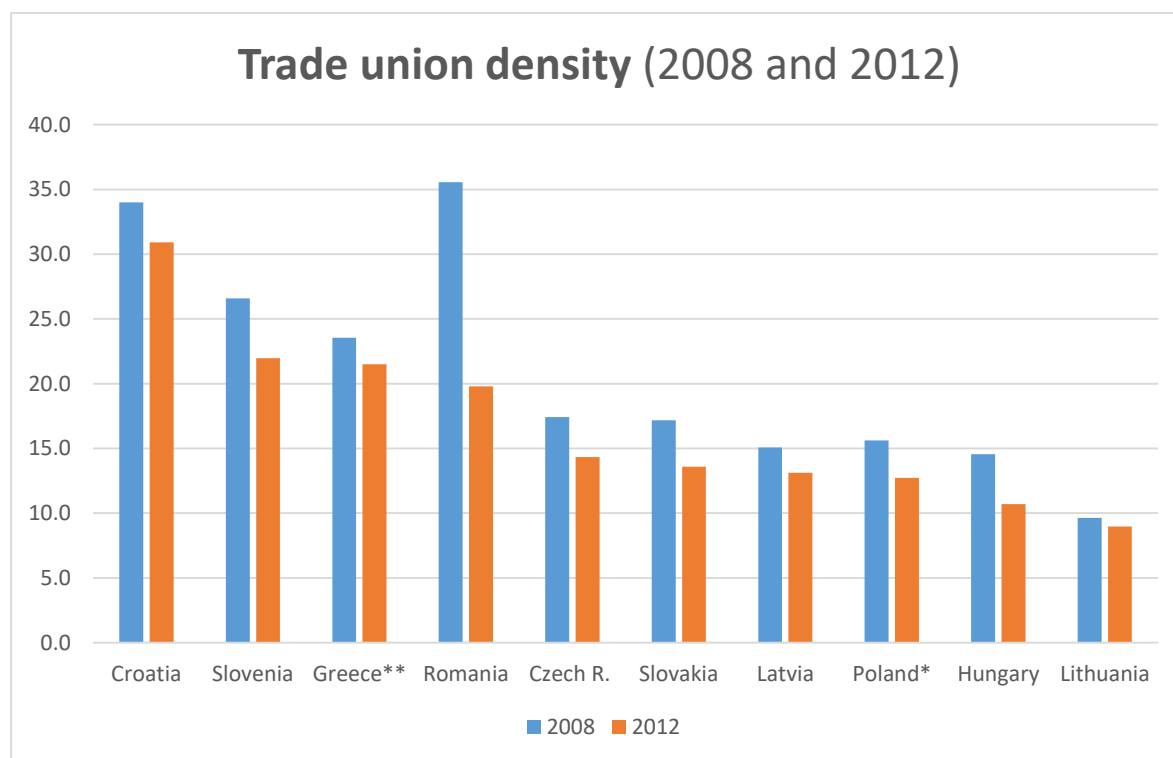
In order to identify the main factors affecting the effectiveness on trade unions in fighting against precarious work after 2008, it is important to review the key aspects that shaped trade unions' role and influence in CEE before the crisis. Trade unions are the only institution that survived the communist regime, which has affected their development after 1989 in several ways (Crowley, 2004). First, unions in CEE retained relatively strong legal protection after 1989, including the legal right to bargain collectively and to be involved in national and sectoral tri-partite or bi-partite bodies (Funk and Lesch, 2004). Second, the reformed national unions' confederations have generally kept some of communist unions' assets, including properties and hotels, which have become a source of income after 1989. In these circumstances, the membership support and membership fees were not crucial elements for the survival of many national union confederations (Trif, 2014).

The inherited communist legacies had mixed effects on trade unions' effectiveness in defending workers' rights (Crowley, 2004; Funk and Lesch, 2004). On the one hand, the inherited legacies have become important enablers that ensured unions' continued existence and guaranteed a role and influence in regulation working conditions. In all CEE, unions were involved in tripartite social pacts and in setting the minimum wage regulations in the early 2000s (Funk and Lesch, 2004: 266). Nevertheless, there was a degree of variation in the role and influence of unions across countries (e.g. the highest union density and collective bargaining coverage was in Slovenia, while the lowest were in Latvia and Lithuania) (Funk and Lesch, 2004). On the other hand, the reliance on external legitimacy has reduced the need for improving internal legitimacy

for unions, including the necessity to organise and mobilize workers to prove their *raison d'être* (Crowley, 2004). The limited reliance of unions on members support for their main roles combined with the fact that the company-level union has continued to be the basic unit of the labour movement in the CEE have contributed to the vertical fragmentation of unions (Trif, 2014). Also, there has been a horizontal fragmentation of the union movement (the initial division was between reformed and new unions), with multiple unions operating at the same level and/or bargaining unit (Funk and Lesch, 2004:265). Furthermore, the association of the unions with the communist regime and the perpetuation of the involvement into politics of union leaders', has reduced their internal legitimacy (Trif, 2014). Although the inherited communist legacies had several negative effects on trade unions in CEE (Crowley, 2004), their statutory rights ensured a degree of external legitimacy.

The statutory support for unions has been diminished after 2008 in half of the countries investigated. Apart from undermining individual employment rights, post-2008 legal changes have also reduced collective rights in Croatia, Greece, Hungary, Romania and Slovakia (see Table 6). Unsurprisingly, the largest decline in union density and collective bargaining coverage has occurred in Romania, where the most drastic limitations concerning the freedom to organise in trade union, to bargain collectively and to strike were introduced after 2008 (Trif, 2016). Nevertheless, union density and collective bargaining coverage have declined in all 10 countries after 2008 (Table 11, Table 7). Thus, there have been rather unfavourable circumstances for trade unions to fight against precarious work after 2008.

**Table 11: Trends in trade union density (2008 -2012)**



**Source:** Union density based on ICTWSS database (UD) (Visser, 2016)

Note: Poland\* data 2007; Greece\*\* data 2013

Based on the empirical findings, this chapter provides insights into the experiences of unions regarding organizing and representing precarious workers, seeking to improve the quality of their working conditions in the selected sectors across the 10 countries. As indicated in the analytical framework presented in Chapter 1, the findings seek to answer the following interrelated questions: (a) Why unions takes specific actions towards precarious work? (b) What are their approaches toward precarious workers? (c) How unions implement those actions (instruments used)? (d) What are the implications of unions' actions for precarious work? In order to identify the main factors affecting the effectiveness on trade unions in fighting against precarious work, the analysis of the findings examines enablers and inhibitors of precarious work after 2008.

### **3.2 The rationales for trade unions actions vis-à-vis precarious work across countries**

As indicated in the analytical framework, there are four sets of rationales that may be taken into account by trade unions when dealing with precarious work. In addition to the economic, institutional, and social rationales for unions' actions identified by Freeman and Medoff (1984), the organisational capacity rationale was considered for this study (see chapter 1). These rationales are not mutually exclusive; unions may consider a single rationale or any combination of them for their actions to address precarious work.

The empirical findings from the 10 EU Member Studies surveyed in the project suggest that trade unions have accepted an increased in the use of internal and external flexibility by employers for economic considerations. In all countries, trade unions agreed to a degree of flexibility contingent of employers' needs, but the level of acceptance of internal and external flexibility varied across countries. At one extreme, the Free Trade Union Confederation of Latvia (the sole national union confederation) has supported the economic need for different non-standard forms of employment, including part-time, fixed-term contracts and self-employment. Furthermore, union representatives revealed that addressing precarious work was not a priority for them, as most workers on non-standard contracts are not union members; this union focused its limited resources to protect their members' rights.

At the other extreme, trade unions in Slovenia seek to transform precarious work arrangements into standard employment contracts; this goal was reflected by the new labour law adopted in 2013, prepared with the involvement of representatives of both unions and employers; this law restricts external flexibility, while it increases internal flexibility by making it easier to dismiss regular employees. The level of unions' support for efficiency rationale in the other countries were between the two extremes. Similar to developments in Slovenia, unions generally accepted (often under pressure from employers and/or governments) various trade-offs between internal and external flexibility across the other countries. In some countries, trade unions accepted non-standard forms of employment to reduce high unemployment (e.g. Croatia, Greece and Slovakia). Apart from very limited unionisation and articulation of the interests of precarious workers, it appears trade unions in CEE are reluctant to oppose the reduction of labour costs by using internal and external flexibility, particularly in the context of the crisis, as they fear that of being labelled 'communist' unions.

The second rationale identified by Freeman and Medoff (1984), namely the institutional rationale, has been the dominant consideration for union actions in most countries. The

institutional consideration refers to whether unions' actions were motivated by seeking to ensure equality of working conditions for 'insiders' and 'outsiders' (Palier and Thelen, 2010). First, unions in all 10 countries investigated have attempted to facilitate equality in society through their involvement in recent amendments of the labour laws, particularly in relation to equalizing the working conditions for agency workers with those of regular employees. Second, unions in most countries seek to bargain collectively for both insiders and outsiders working in a specific company, aiming to ensure equal working conditions for workers on standard and non-standard contracts. Finally, in a context of weak capacity of law enforcement in all 10 countries investigated, the most common joint initiatives by unions and employers were to reduce informal practices, as informal work undermines working conditions for standard employees and create unfair competition for employers.

Nevertheless, the extent of unions' support for workers on non-standard contracts varied across countries. At one extreme, unions in Greece do not accept members on work contracts that do not require employers and employees to pay social benefits (e.g. self-employed) for moral considerations. At the other extreme, unions in the healthcare sector in Romania have initiated a legal change in 2015 to promote a special type of self-employment for medical staff. The union sought to support their members on a standard employment contract to supplement their rather low salaries with an additional income by getting a second job. In contrast with developments in Greece, unions in the nine CEE investigated generally accept members on any types of work contracts, although very few workers on non-standard contracts are unionized. By and large, unions in CEE support equal treatment of insiders and outsiders to avoid the undermining of working conditions for standard workers. Although unions' regulatory actions aiming to achieve equal treatment of standard and non-standard workers may have moral considerations, unions' actions are often based on a pragmatic rationale seeking to defend their members' rights and improve their organisational capacity.

The third rationale identified by Freeman and Medoff (1984), namely the social legitimacy rationale, has been a rather implicit consideration for unions' actions in most countries. In a context of a decline of union density and collective bargaining coverage after 2008 in all 10 countries (see Table 11, Table 7) combined with undermining of basic union rights in some countries (Croatia, Greece, Hungary, Romania and Slovakia), a fundamental purpose of virtually all unions' actions was to improve their legitimacy. At one extreme were developments in Romania, where union' confederations and most federations lost their main *raison d'être* following the 2011 legal changes, namely to negotiate collective agreements. Apart from a massive reduction in the statutory support for unions' activities which reduced their external legitimacy, there has been a campaign of intimidation of union leaders, which reduced their internal legitimacy (Trif, 2016). In this dire context, some unions, such as BNS, tried to change the focus of their activities from collective bargaining to providing individual services to members and non-members, including for vulnerable groups of precarious workers. At the other extreme, there were developments in Slovenia, where unions had limited issues with social legitimacy; nevertheless, the decentralisation of collective bargaining and the increase in the share of non-standard contracts after 2008, made it more relevant for unions to have a visible contribution to the reduction of precarious work, especially as non-standard work arrangements may undermine working conditions for regular employees.

Furthermore, in the hostile circumstances created by the combination of a severe crisis and undermining collective rights, some unions particularly in Romania and Greece took actions, such as organising and mobilizing precarious workers, to ensure their own survival. By and large, trade unions in the 10 countries investigated had pragmatic rationales for their actions seeking to maintain or increase their organizational capacity by ensuring their survival and legitimacy, as otherwise they would be unable to fight against precarious work. Specific developments and examples of best practices across countries will be discussed in the next section examining the approaches and instruments used by unions to address precarious work across sectors.

### **3.3 Trade unions' actions vis-à-vis precarious work across sectors**

As discussed in chapter 1, trade unions may seek to retain status quo, reduce or eliminate precarious work by adopting the following three approaches towards workers with precarious conditions: (a) *inclusion*, aiming to reduce or eliminate precarious work by getting the same rights for workers on standard and non-standard employment contracts (Heery, 2009); (b) *separation*, generally aiming to reduce the gap between working conditions for standard and non-standard workers by developing special provisions for non-standard workers (Heery, 2009); and (c) *exclusion*, referring to the fact that unions seek to eliminate precarious work by refusing to accept members from specific categories of non-standard workers (e.g. self-employed) or to improve their working conditions (Heery, 2009). The actions adopted by unions to implement the selected approaches may vary from *soft* (e.g. information campaigns and consultation) to *hard* (e.g. legal changes, collective bargaining and industrial action) instruments (see chapter 1). While unions' approaches imply an element of strategic freedom, their actions may be constrained by both external factors (e.g. employers, the legal framework and the labour market) and internal factors (e.g. their organisational capacity to implement the selected actions). Driven generally by a combination of equality and efficiency rationales, trade unions approaches and instruments to deal with precarious work varied across sectors being contingent on sectoral specific internal and external factors.

#### **3.3.1 Construction sector**

In the construction sector, elimination of (legal) precarious work forms was very rarely on trade unions agenda (except in Poland), as unions accepted the efficiency rationale for using non-standard forms of contracts in all 10 countries investigated. The actions of unions were primarily aimed at the reduction of precarious work, based on the equality rationale in most countries (except Latvia, Lithuania and Hungary). In five countries with tradition of sectoral social dialogue and a degree of coordination of collective bargaining (Croatia, Greece, Romania, Slovakia and Slovenia), trade unions had an inclusive approach seeking to increase the equality in the working conditions of employees on standard and non-standard contracts. In the remaining five countries (Czechia, Hungary, Latvia, Lithuania and Poland), relatively weak unions had an exclusive approach, aiming to use their limited resources to protect their own members, most of which have standard employment contracts. Thus, equality rationale associated with an inclusive approach was prevalent in countries with tradition of long established relations between the sectoral social partners.

Nevertheless, in most countries, trade unions used a combination of hard and soft instruments to address precarious work in the construction sector. *First*, the involvement of trade unions in *legal changes* seeking to improve working conditions appears to be the most effective instrument to address precarious work. For instance, in Poland, the lobbying actions of both unions and employers led to legal amendments to the procurement law in 2014, by introducing non-price criteria for public tenders, including the possibility to add social clauses concerning employment standards. In most countries, the procurement laws favour the lowest bid and/or the criteria are unclear (e.g. Hungary, Latvia, Lithuania, Romania and Slovakia) leading to a race to the bottom in terms of labour standards (commonly via a long chain of subcontracting) as well as accusations of corruption. Hence, a legal requirement to introduce social clauses in the bids for public tenders could be considered a best practice example for other countries to create a fair procurement process and reduce the pressure to lower labour costs.

There were other legal initiatives adopted to address work precariousness in construction. In Slovenia the social partners initiated a legal change, which makes it possible to extend a multi-employer bargaining to the entire sector if the members of the employers' association employs at least 50% of the labour force in the sector. Nevertheless, the representative employers' association in the construction sector does not fulfil this criteria; consequently, the collective agreement has not been extended. In Croatia, the political lobbying by unions led to a legal amendment in 2011, making the failure to pay wages a criminal offence, in context were workers at the bottom of the subcontracting chains were often unpaid or suffered long delays in payments. In Slovakia, both social partners are lobbying the government for stricter control of safety regulations as well as the improvement of working conditions for self-employed, following several fatal accidents due to poor quality of construction works.

Although the above procedural statutory amendments seek to reduce precarious work, in practice, there have been rather minor improvements (if any) in working conditions following the adoption of those amendments. The construction sector is the most prone to informal work in all countries, often linked to the procurement process, which favours a long chain of subcontracting to reduce labour costs. It was reported that the presence of trade unions is generally associated with better implementation of the labour law, but in several countries union density is under five percent (e.g. Hungary, Latvia, Lithuania and Poland). Thus, legal changes are necessary but not sufficient to address precarious work in the construction sector.

*Second*, trade unions have been involved in collective bargaining in the construction sector in all 10 countries investigated after 2008, but there is variation in its effectiveness in addressing precarious work across countries. At one extreme, collective bargaining was used to legitimize wage cuts in Greece, including the payment below the minimum wage for young workers. At the other extreme are developments in Slovenia, where unions managed to improve working conditions via collective bargaining after 2008. Nevertheless, similar to Greece and Romania, the multi-employer collective agreement in Slovenia covers only members of the employers' association that signed the agreement (they employ circa 25% of the total labour force), while before the crisis it covered all employees in the sector. Also, employers can opt out of employers' associations, if they do not want to implement the provisions of a multi-employer collective agreement. Furthermore, it was reported in Slovenia that the more beneficial a collective agreement is for standard workers, the more likely is that employers use non-standard (subcontracted) workers on precarious terms to reduce the overall labour costs to remain

competitive. In many countries, collective bargaining has become a softer instrument that set recommendations and guidelines for companies (e.g. in Lithuania, Poland, and Romania), sometimes to avoid employers opting out of employers' associations (e.g. Romania). Nevertheless, the role of social dialogue and collective bargaining remained relatively stable in Czechia and Slovakia, but unions have agreed to more flexible working time arrangements after 2008 (e.g. annualised working hours). In the context of a massive decline of construction works during the crisis and reduction of collective rights, the influence of collective bargaining on addressing precarious work has generally declined in after 2008.

*Finally*, additional soft and hard instruments were used by unions across countries in the construction sector. The main soft instruments were (a) information campaigns in Czechia, Greece, Hungary Slovenia; (b) consultation in the form of individual services for precarious workers (e.g. Hungary, Lithuania and Romania); and (c) collaboration with other unions to eliminate bogus self-employment in Greece. Apart from legal changes and collective bargaining, additional hard instruments were used in the form of industrial action in Croatia and litigation in Greece and Slovenia. Finally, bi-partite fora have been utilised by trade unions and employers to fight against informal work, to deal with health and safety issues and to provide training in Croatia and Romania. In addition, the Romanian social partners have developed a bi-partite institution that provide a so-called 'bad weather' financial support to construction workers on standard contracts when there is a temporary interruption of work. This bad weather fund was set in 1997 and it is based on the contribution of employers, employees and customers. Creating a social fund based on the voluntary contribution of employers and employees (and maybe customers) seeking to buffer the consequences of unforeseen circumstances for employees could be considered a best practice example to be adopted in other countries or other sectors, as it supports not only employees, but it also helps companies to retain skilled employees when there is a lower demand for their products or services.

Summing up, trade unions' actions to address precarious work in the construction sector were primarily based on efficiency and equality rationales. Apart from the fact that it was the worst hit by the recession, the temporary nature of construction work and procurement laws make it rather precarious. Unions attempted to reduce precarious work, primarily via legislation to protect the most vulnerable groups (e.g. self-employed) and through collective bargaining to maintain or improve working conditions for standard and sometimes non-standard workers. By and large, collective agreements protected the working conditions for a minority of skilled employees working in large and medium size unionised companies, sometimes at the expense of the most precarious workers at the bottom of the subcontracting chains. Although unions have been sometimes successful in amending the legislation for non-standard workers, there are issues with the implementation of laws across the 10 countries, which are exacerbated by the procurement laws encouraging a race to the bottom concerning employment standards. Hence, amending the procurement laws to include social clauses could play a fundamental role in reducing work precariousness. Nevertheless, legal changes are not sufficient to address precarious work without the commitment and support of both social partners to implement the existing laws and collective bargaining regulations throughout the entire sub-contracting chains.

### 3.3.2 Healthcare sector

There are both similarities and differences concerning trade unions' actions in the healthcare sector across the 10 countries investigated. Low public expenditure, chronic labour shortages and a strong state intervention in setting working conditions are common challenges across countries, which led to a number of similarities in unions' actions to address precarious work in the healthcare sector. First, unions' approaches were generally inclusive, aiming at improving the quality of employment conditions for workers on both standard and non-standard contracts, based on the equality rationale. Second, despite a relatively high level of unionization, unions have (often reluctantly) accepted efficiency considerations for wage cuts in the public sector in most countries. The decline in the income of employees on standard contracts forced nurses and doctors to get multiple jobs, which resulted in the emergence of hybrid forms of employment consisting of standard and non-standard contracts in several countries (e.g. Czechia, Latvia, Poland and Romania – see further details in chapter 2). In these circumstances, the main focus of unions' actions was to increase wages and reduce excessive workloads for medical professionals on standard contracts, while also attempting to prevent undermining working conditions for non-standard workers.

Findings suggest that unions used a combination of *hard* and *soft* instruments to fight against precarious work in the healthcare sector, primarily directed towards governments. Unlike in the private sectors investigated, governments set wages and other working conditions via legislation in public healthcare in most countries, except Croatia and Latvia. In the last two countries, unions negotiated sectoral collective agreements with the government for all employees. Despite involvement in collective bargaining in several other countries (e.g. Czechia, Romania, Slovakia and Slovenia), unions' actions were primarily focused on influencing the *legislation* affecting working conditions in the healthcare sector across all countries investigated.

Unions utilized a mixture of media campaigns, political lobbying and different forms of protests to put pressure on governments to address precarious work, but the success of their actions varied greatly across countries. In countries that had loans from the Troika, unions did not manage to prevent pay cuts or bans on recruitment, despite using media pressure and industrial action to fight against the austerity measures (e.g. Greece and Romania). Although not all protests have been successful in the other countries, some unions managed to improve working conditions for healthcare staff, following various forms of industrial action or a credible threat to strike (e.g. Croatia, Czechia, Hungary, Poland, Slovakia and Slovenia). In Poland, a month long protest outside of the Prime Minister's office resulted in 30% wage increases for medical staff in 2008. However, a similar protest organised by the same union against the use of civil law contracts for nurses and midwives in 2011, was not successful. In Slovenia, the government agreed to negotiate with unions the norms and standards of work only after a strike threat in 2013; unions revealed that their systematic use of the media to put pressure on the government to improve working conditions in the healthcare sector has contributed to averting the use of industrial action. These developments suggests that soft instruments (e.g. information and media debates) are influential in supporting the use of harder instruments, such as collective bargaining and industrial action, showing that soft and hard instruments complement each other.

Despite the fact that most unions had an inclusive approach to address precarious work, the fragmentation and divisions between different healthcare occupations was accentuated during the crisis in several countries (Croatia, Czechia, Poland, Hungary and Slovakia). The most common

divisions were between doctors and nurses. In a context of massive labour shortages, doctors have successfully used resignation campaigns in Czechia and Slovakia, and the threat of mass emigration of junior doctors in Hungary, to achieve pay raises. In contrast, nurses' resignation campaign in Slovakia was not successful. The Slovakian unions adopted a combination of instruments, including memoranda, petitions and negotiations with the government, which resulted in wage increases for nurses via legislation, but there are issues with its implementation; in some hospitals, employers negotiated with the company-level union(s) lower wages or reduced unilaterally the working time and/or increased workloads to limit wage increases. In Czechia, pay increases for doctors are not implemented in all types of hospitals; also, wages of nurses may vary depending on the type of remuneration system used by the hospital. In Poland, there was a pay raise solely for nurses and midwives following a threat with a general strike in 2015, causing divisions between different occupations; nevertheless, unions are lobbying the government to eliminate the discrepancies between occupational groups. Despite fragmentation, sectoral unions manage to have a pragmatic collaboration when needed, in some countries (Slovenia, Romania, Lithuania and Hungary), which increased their power vis-à-vis government.

While there are a number of similarities across countries concerning unions' actions to reduce work precariousness for medical staff on standard contracts, unions' approaches to non-standard forms of contracts varied greatly from elimination to expansion. At one extreme, there have been attempts by unions in Croatia, Greece and Poland to *eliminate* subcontracting of services. In Greece, self-employed doctors are not accepted as members by unions, but nurses and other self-employed staff are allowed to join union for pragmatic reasons (the organisational survival was at stake). In Croatia, the largest sectoral union (in collaboration with other public sector unions) has successfully prevented the outsourcing of non-core services in 2014. The government abandoned their outsourcing proposal, after unions collected the required number of citizen's signatures required to call for a national referendum that would ban outsourcing in the public sector. Although unions have been successful in preventing outsourcing of existing services, the retired staff are generally replaced with outsourced workers. In Poland, unions indicated that they wish to eliminate bogus self-employment for medical staff, while in practice they tolerate its expansion, by accepting members with hybrid (standard and non-standard) contracts. Thus, findings suggest that the elimination strategy has rather limited effectiveness in reducing the share of non-standard forms, in practice.

At the other extreme, the largest Romanian union in the healthcare sector initiated a law in 2015 to facilitate the *expansion* of hybrid contracts consisting of a standard contract in the public sector supplemented by a self-employed contract in the private sector. The union had a pragmatic approach to regain the membership lost, following the 2011 arrest of their leader, Marius Petcu in 2011. He was accused of corruption, but other union officials argued that he was targeted due to its efforts to mobilize workers to request a higher public expenditure for the healthcare sector (Trif, 2013). In a context of low wages, unions strived to support their members to get additional income through legal changes and by providing complementary training for nurses to enable them to get a second job as careers or nannies (with financial support from EU grants). The individual services combined with union's involvement in collective bargaining and social dialogue have contributed to regaining membership to the pre-2011 level, according to a union official. Similar to developments in Greece, the organizational rationale was very important for the largest union in the sector to improve its internal legitimacy.

Summing up, trade unions' actions to address precarious work in the healthcare sector were primarily directed towards governments aiming at increasing wages and reducing workloads for employees on standard contracts. Unlike the other sectors, there was no decrease in demand for healthcare services during the recession; however, there was a decline in public spending after 2008, which led to wages cuts and excessive workloads in most countries, which in turn, accentuated the shortage of medical staff. In this context, the main purpose of unions' actions was to reduce work precariousness for medical professionals on standard contracts. Healthcare unions were more likely to use different forms of protests than those operation in other sectors; their actions frequently improved working conditions for a specific occupation (e.g. doctors), which in turn, led to divisions and protests by the other occupations. Nevertheless, unions' actions were generally inclusive (seeking to protect workers on standard and non-standard contracts) based on a combination of equality and efficiency rationales. Unlike in other sectors, some medical professionals have hybrid forms of standard and non-standard contracts. The share of non-standards contracts (e.g. subcontracting and self-employed) is increasing in several countries; in Croatia, the government attempted to reduce labour costs by outsourcing non-core services in 2014, but unions' public initiative managed to prevent it. Similar to other sectors, healthcare unions' actions were more likely to be successful in addressing precarious work, when a combination of hard instruments (especially various forms of industrial action or a credible threat to strike) and soft instruments were adopted. Despite a relatively high union density in most countries (except Poland), issues with the implementation of legal provisions and join regulations were reported in most countries, in a context of increased ownership fragmentation and a declining role of trade unions in the healthcare sector.

### ***3.3.3 Retail sector***

Trade unions' mission to address work precariousness in the retail sector has been very challenging in most countries. On the one hand, there is low union density due to two main reasons: (a) there is a very high fluctuation of personnel in all countries, which makes it difficult to retain union members in a context where members join the company-level organisations; (b) the large majority of retail workers are employed either by small companies or by multinational chains, both of which are very difficult to unionize. Somewhat surprisingly, despite an unfavourable context after 2008, retail unions in Croatia, Hungary, Poland, Romania and Slovenia had successful organising campaigns seeking to increase their own organisational capacity to enable them to address precarious work. Unlike in other sectors, the organisational rationale played a fundamental role as the first step in unions' actions to make possible the adoption of other instruments in the retail sector (e.g. collective bargaining and individual support) in several countries.

On the other hand, apart from being severely affected by the recession, the specificity of the retail sector makes it prone to informal work practices seeking to reduce the amount of payroll taxes paid. The high fragmentation (it consists of a large number of small companies or workplaces), the high labour turnover combined with relatively low-skilled jobs as well as the legal changes that increased the prerogatives of employers to use irregular working hours, make it very difficult for Labour Inspectors to verify the implementation of the legislation (and other regulations) in all countries investigated. Many retail employers, particularly in small companies, use a range of informal employment practices, varying from workers with no contract, envelope payments on top of minimum wages and bogus part-time contracts for full-time employment. In this context,

unions and organised employers had joint initiatives to reduce informal work practices in several countries, such as the media campaign entitled ‘*Stop the work in informal economy*’ in Croatia. In addition, unions provided individual services in litigation cases related to lack of law enforcement, in many countries (e.g. Greece, Lithuania, Romania, Slovakia and Slovenia).

While unions seek to eliminate illegal work practices, they generally accept the *efficiency* rationale for using (legal) non-standard form of employment and irregular working time in the retail sector, but there is variation across countries. At one extreme, there were developments in Slovenia, Greece and Poland, where unions aspire to eliminate at least specific forms of precarious work (e.g. so-called ‘junk contracts’ in Poland; and, Sunday work in Greece). In Slovenia, unions would like to eliminate non-standard forms of employment by making it more expensive for employers to use them. In practice, however, their initiatives target the reduction of precarious work, particularly via legislation and collective bargaining. Nevertheless, a union representative indicated that these hard instruments have limited effectiveness; in a context where many workers joined unions as anonymous members in recent years, unions cannot mobilise them to support collective actions. Unlike in other sectors, Slovenian unions revealed that *media pressure is the most efficient instrument* to address precarious work in the retail sector, as large chains are afraid of getting negative publicity in the mass media. Thus, soft instruments could be more effective than hard instruments in addressing precarious work, when unions lack mobilisation capacity.

At the other extreme, there were developments in Czechia and Hungary, where unions supported legal amendments which expanded employers’ prerogatives to use functional flexibility. In Hungary, unions revealed that non-standard contracts, such as part-time are a ‘lesser evil’ than job losses. Unlike in other sectors, the retail union federation in Czechia considers non-standard contracts as ‘flexible’ rather than precarious, showing a high level of acceptance of efficiency considerations. Also, this union had an *exclusive* approach, by focusing their efforts on improving working conditions solely for their members on full-time standard contracts. Apart from the fact that agency workers and those on work agreements contracts were not accepted to join the retail unions, the provisions of the multi-employer collective agreement regulating minimum working conditions in the retail sector, do not cover workers on non-standard forms of contracts in Czechia. This exclusive approach combined with political lobbying (in relation to minimum wage increases and regulation of opening hours during public holidays), have not been very effective in improving working conditions for retail workers in Czechia, as retail continues to be one of the most precarious sectors in the country.

In the other countries, retail unions generally have an *inclusive* approach aiming to improve the quality of working conditions for all workers through a combination of soft and hard instruments, based on *equality* considerations. In a context of limited sectoral collective bargaining in most countries (except Croatia and Slovenia), unions are seeking to amend substantive and procedural aspects that affect working conditions via *legislation*. As regard substantive issues, retail unions lobby governments to increase minimum wage, which is the basic wage for the majority of retail workers in all countries. Also, unions seek to amend legal provisions concerning opening hours during week-ends and public holidays, as these are key issues in the retail sector across all countries. As regards procedural issues, unions use political lobbying to make it more difficult for employers to use non-standards forms of contracts to reduce labour costs in several countries (e.g. Croatia, Greece, Poland and Slovenia). Also, unions (sometimes together with organised

employers) lobby governments for legal changes to improve the enforcement of the laws in relation to working time, health and safety issues and other illegal practices in all countries. In several countries, organised employers and trade unions lobby together for legal changes to allow a stronger role for the social partners seeking at reducing informal practices (e.g. Greece, Hungary and Romania). Thus, the legislation is one of the key instruments used by unions to address precarious work in the retail sector in all countries.

In most countries, unions also utilize *soft* instruments, such as media campaigns and information of workers to get support for legal changes. In some countries, there has been collaboration with other unions' federations and confederations for some initiatives, such as '*Stop junk contracts*' campaign in Poland and '*Never work on Sunday*' campaign in Greece. Although these initiatives have been instrumental in raising public awareness of the poor working conditions in the retail sector, they have rarely been effective in reducing precarious work. A partial success was achieved in Poland; the media campaign against work on Sunday and on Christmas Eve, led to the reduction of working hours on 24<sup>th</sup> of December 2014, in the majority of large retail chains. Moreover, media campaigns aimed at putting pressure on specific retail chains to improve working conditions were considered the most efficient instrument in addressing precarious work in Slovenia, as discussed earlier. Media campaigns maybe more effective in the retail sector, as companies might be more concerned that negative publicity could discourage customers to shop in their outlets.

Nevertheless, in several countries, unions were the most effective in addressing precarious work through organising workers combined with company level collective bargaining. In Poland, a union managed to organise over 1000 employees in Kaufland in 2014. Following this organising campaign, the union negotiated pay increases up to €50 per month and a conversion of temporary employment contracts (except the civil law contracts) into standard open-ended contracts. In a similar vein, the collective agreements negotiated after a successful organising campaign in several foreign retail chains in Romania, improved working time provisions (e.g. workers have at least one week-end free per month) and introduced bonuses for Christmas and Easter as well as higher rate of pay for overtime. The international union support from Ver.di and UniGlobal contributed to a successful organising campaign in several MNCs after 2008 in Romania. These developments demonstrate that it is possible for unions to organise workers in MNCs in unfavourable circumstances, particularly with international support.

Overall, trade union actions' actions to address precarious work in the retail sector were often different from other sectors. *First*, as union density in the retail sector is very low, the organisational considerations for unions' actions were very important in several countries (e.g. Croatia, Hungary, Poland, Romania and Slovenia). Unlike in other sectors, there has been an increase in union density in foreign retail chains in Hungary, Poland and Romania after 2008. Following those organising campaigns, company level collective bargaining was successfully used to improve working conditions, including in transforming non-standard contracts into standard contracts in Poland.

*Second*, the relatively weak organizational capacity of retail unions affected the instruments used by unions to address precarious work. Retail unions are less likely to use protests and industrial action than in other sectors (e.g. healthcare), respectively more likely to use soft instruments to address precarious work in most countries. Nevertheless, soft instruments, such as media

campaigns, were utilised to support hard instruments (e.g. legal changes in relation to irregular working hours in Croatia, Hungary, Poland and Slovenia). Moreover, political lobbying seeking to increase minimum wage and reduce opening hours during week-ends were considered more effective than collective bargaining in addressing precarious work in most countries, in a context where the majority of workers are paid minimum wage and work irregular hours. Finally, similar to the construction sector, there have been joint actions between organised employers and unions seeking to reduce informal employment practices in the retail sector, but they were not very effective in a context of very limited collective bargaining coverage and limited capacity to enforce laws.

*Third*, international collaboration with other unions played a more important role in addressing precarious work in the retail sector compared to other sectors. In some countries, unions emphasized the importance of international collaboration to improve working conditions in foreign retail chains, either by regular meetings to exchange information (e.g. Czechia) or by supporting their organising campaigns (e.g. Romania). Additionally, the campaign ‘*Never work on Sundays*’ in Greece got international support. International collaboration could be more widely utilized by unions to fight against precarious work in MNCs retail chains, considering there is virtually no competition between subsidiaries of a multinational retail chain operating in various countries, as they serve domestic markets.

Summing up, the actions of trade unions in the retail sector have been primarily targeted at reducing informal work, increasing wages and dealing with irregular work. Different from other sectors, (a) the organizational rationale played an important role in several countries; (b) the acceptance of the efficiency rationale varied greatly across countries; and (c) media campaigns were more likely to be used than protests to achieve the equality rationale. Despite commendable efforts to organise workers and some successful initiatives in reducing work precariousness in specific retail chains through organising campaigns combined with collective bargaining, the relatively weak organisational capacity of retail unions made their actions rather ineffective in reducing the overall work precariousness. As a result, the retail workers continue to have some of the poorest working conditions across all five job quality dimensions in most countries.

#### **3.3.4 Metal sector**

The metal sector is a relevant part of the economy in most studied countries. From the perspective of precariousness and labour market dualization, it is closely intertwined with the TAW sector: in the majority of studied countries agency work has been the most important form of precarious work that the metal sector has been facing in the post-crisis years. However, while the TAW sector lacks unique trade union representation in the studied countries, trade unions in the metal sector are well established. In some countries, e.g., Croatia, Hungary and Romania, the metal sector trade union landscape consists of a fragmented union structure. In other countries, including Czechia, Poland, Slovakia and Slovenia, there is a centralized and coordinated union structure in the sector. Latvia and Lithuania are the only two countries where the metal sector experiences poor trade union presence. In Latvia, the sectoral trade union ceased to exist.

The presence of trade unions, often at the sector level, is not automatically translated into a widespread existence of sectoral bargaining. Unions participate in multi-employer and sector-wide bargaining in Greece, Romania, Slovakia and Slovenia. In Poland, unions focus on the establishment of inter-company unions that are equipped with higher bargaining power than

company-level unions. In Croatia, unions are mostly active in company-level bargaining, but they also push for a sectoral agreement and its extension. In Hungary and Slovenia, unions use the sector-level union structures to lobby for legislative changes addressing fixed-term employment contracts.

The rationale behind union action in the metal sector is in all studied countries strongly underpinned by equality considerations. In addition, in Hungary, Romania and Slovakia, the fact that unions recognized new opportunities to represent precarious workers also serves the purpose of union survival in conditions of generally declining membership and bargaining decentralization. Romanian unions are also motivated by improving trade union legitimacy, which supports the union survival rationale.

Not in all countries did unions adopt an inclusive approach towards precarious workers. Our findings show that the unions' approach differs according to the type of precarious work. Unions in general adopted an inclusive approach to workers in fixed-term contracts or on flexikonto schemes (annualised hours), but remained exclusive to agency workers (e.g., in Hungary, Greece and Slovakia). This is because agency workers were perceived as a threat, or competition, to regular employees that constitute the core of union constituency in the metal sector. The exclusive approach vis-à-vis agency workers has however shifted towards a more inclusive one in Slovakia and Romania after unions recognized the opportunity to represent a new cluster of precarious workers and thereby also protect the core labour force by striving for equal working conditions and reduction of labour market dualization. Finally, our findings document also an approach of separation, where unions address specific issues such as shorter working hours for workers in particular types of employment, or targeted services for agency workers at the workplace level. This is the case in Czechia, in Hungary, as well as in Slovenia.

The metal sector trade unions engaged in a wide variety of instruments to reduce precarious work across each studied country. While legislative pressures remained important (especially in Croatia, Czechia, Hungary, Slovakia and Slovenia), unions often engage in collective bargaining as the most important instrument in the metal sector. Bargaining is used at different levels from company level, through inter-company level to the sector level. In Lithuania, where bargaining coordination is marginal and a sectoral union in the metal sector does not exist, unions prioritize the maintenance of company-level bargaining with an inclusive approach towards precarious workers. Thereby they remain active in addressing precarious work and at the same time respond to diverse employer interests. Unions benefit from a greater degree of bargaining coordination to address issues related to precarious workers' equal pay, working time regulations and a shift to regular employment, for example in Croatia, Poland (inter-company trade union actions) and Romania.

In Hungary, Romania, Slovakia and Slovenia, unions also engaged in political lobbying in order to influence legislation concerning precarious workers. In Hungary, the metal sector unions use the MSZOSZ confederation to channel their lobbying activities. The 2012 draft of the Labour Code was successfully modified due to union intervention especially related to fixed term contracts, and less successfully related to temporary agency work. The Romanian trade union at Dacia Renault initiated a legal change requiring employers to provide the same terms and conditions for agency workers as for workers employed by the beneficiary company. In Slovakia, trade unions won legislatively stipulated co-determination rights over *flexikonto* implementation

at company level. Unions continue to fight for a legal reduction of the length of *flexikonto* schemes, while employers favour further extension of the length of *flexikonto* and its application also to agency workers. In Slovenia, the most visible effect of trade unions' legislative action was the 2013 legislative amendment. It was a "political bargain" in which convergence in working conditions has been achieved between regular and precarious workers (e.g. concerning employment and dismissal procedures).

An interesting target of unions' legislative and lobbying efforts is the domain of education. We found unions focusing on reducing precariousness through education in Croatia, Latvia and Slovenia. In Croatia, unions push for a more flexible education system in order to equip workers with skills that would secure them a stable standard employment relationship. Educative programs in Latvia aim at overcoming the lack of interest to become union member among the workforce. In Slovenia, the SKEI trade union has made a systematic effort to educate permanent employees that agency workers are not their enemies but rather people forced to accept unfavourable working conditions because of existential problems.

While legislative efforts, lobbying and bargaining at various levels are the most important union instruments found in the metal sector, unions in some countries also engaged in organizing and mobilization. Mobilization turned out ineffective in Greece, but Czechia unions succeeded with organizing new members by stipulating union membership outside the workplace level. This way membership is also open to agency workers that lack long-term commitment to a particular single workplace and/or employer. The best practice of organizing in response to outsourcing has been documented in Romania. With international support, outsourcing plans of employers yielded the establishment of SITT - the first trade union in the IT sector in Romania in 2009. SITT used rather traditional instruments of organizing, collective bargaining and strikes to defend the working conditions for all employees. The union managed to organize and mobilize workers to be outsourced and signed a collective agreement in three multinational corporations. It has managed to improve working conditions for outsourced workers. This case indicates that it is possible to organize and mobilize any type of workers to improve their working conditions, particularly when there is a perception of unfairness. It also shows the importance of international collaboration for unions to respond to global strategies of multinational corporations to reduce labour costs.

In sum, trade unions in the metal sector are well established in all studied countries except Lithuania and Latvia. Driven predominantly by the equality rationale, unions have used their position to reduce precarious forms of work mainly through traditional instruments. These include political lobbying, legislative efforts, and collective bargaining at various levels. Despite the reasonably strong positions of the metal unions, sectoral bargaining is weakening in favour of company-level bargaining. Unions recognize this challenge and focus their resources on company-level bargaining and in some cases also organizing precarious workers. The general union approach vis-à-vis precarious workers has been inclusive, but in three countries (Greece, Romania and Slovakia) unions were initially not interested in an inclusive approach because precarious workers were often outside of unions. A shift to more inclusive approach came hand in hand with the unions recognizing new opportunities if representing also precarious workers (especially agency workers). Besides traditional instruments, unions engaged in organizing, educating and empowerment efforts in relation to precarious work in Czechia, Croatia, Latvia, Poland, Romania and Slovenia.

### ***3.3.5 Temporary agency work sector***

The TAW sector stands out in comparison to the other sectors because of several unique characteristics. First, in most studied countries, TAW has been growing in the post-crisis years; but employment levels in the sector still resemble only a marginal share of the economy. At the same time, the TAW sector has been presented as highly precarious and one of the key sectors where labour market dualization has been developing. Second, because of the heterogeneous and temporary nature of agency work, trade unions often face challenges in organizing and representing agency workers, or perceive them even as a threat to the stable representation of core union members - employees with standard employment contracts.

The fact that the TAW sector became a more significant part of the labour market only in the past decade is mirrored in the lack of trade union presence therein. Trade unions exclusively representing agency workers exist only in the Greek banking sector; and even here TAW unions strived for recognition by other unions, the state and employers. In Slovenia, there is a high share of agency workers among the Slovenian Free Trade Union. In other CEE countries, the TAW sector lacks union representation; however, in Czechia, Poland, Romania, Slovakia and Slovenia other sectoral unions took initiative to represent agency workers or engage in legislative efforts that affect agency work. Most often these are unions of the metalworking sector, where agency work is concentrated. In addition, Romania saw trade union attempts to organize and represent agency workers in the telecommunications sector.

In all studied countries where unions do recognize the challenge of agency work and related labour market dualization, striving for equality has been the dominant rationale for union action. Latvia is the only country where our research did not find evidence for any union initiatives and therefore cannot argue that union action was driven by equality considerations.

The approach that trade unions adopted vis-à-vis agency workers across countries ranges from exclusion to inclusion. In Latvia, Lithuania, and Poland unions exclude agency workers from their agenda and focus on protecting their core constituency in standard employment forms. A similar approach characterizes the main Greek trade union in the banking sector. In contrast, unions adopted a generally inclusive approach to integrate agency workers into their agenda in Hungary, Slovenia and Romania. Despite their generally inclusive approach, Hungarian unions rarely point attention to the needs of agency workers, and the initiatives of Slovenian unions on agency work are sporadic and lack long-term strategy. A more inclusive approach towards agency workers has been noted also in individual cases at the company-level in Lithuania, Poland and Romania. Examples of this approach in Poland include organizing efforts of company-level unions within NSZZ Solidarność to increase the share of agency workers in inter-company union committees in steelworks as well as in the automotive sector across General Motors and Volkswagen plants in Poland. Also, two small radical trade unions (the All-Poland Workers' Trade Union Confederation of Labour and the All-Poland Trade Union Workers' Initiative) included in their internal statutes a tool of milieu (based) union organizations that enable inclusion of employees with different types of contracts including agency workers. Finally, in Croatia and Greece, we found individual examples where unions developed targeted actions exclusively related to TAW and thereby separated their approach to TAW from their generally inclusive policies targeting all workers.

Czechia and Slovakia are the most interesting cases from the perspective of union approach vis-à-vis TAW. While unions initially excluded TAW from their agenda and even perceived agency workers as a threat to union legitimacy anchored in a constituency of workers with regular contracts, this approach has changed to an inclusive one after unions recognized opportunities that the growing share of TAW offers for union's visibility, power and survival. In turn, the Czech and Slovak metalworkers' unions became more active in promoting the specific needs of agency workers (e.g., job stability, equal pay, avoiding payment abuse - travel reimbursements instead of regular salaries, etc.).

Because of lacking formal interest representation, in neither of the studied countries is TAW subject to sectoral collective bargaining or sectoral collective agreements. In such conditions of the missing sectoral social dialogue, trade unions have mostly concentrated their actions at two levels: the national level and the company level. Lobbying for legislative changes affecting TAW at the national level is the dominant instrument that trade unions used in 5 countries (Czech Republic, Poland, Romania, Slovakia and Slovenia). While the existence of reasonable legislation somewhat pre-empted union initiatives to further shape legislative developments in Slovenia, in most CEE countries union instruments were heavily concentrated in legislative efforts to improve working conditions of agency workers and thereby reduce or eliminate precarious work. This finding aligns with broader trends in CEE countries where legislation is seen as the most important resource for trade union action. Union's legislative proposals were in some countries (e.g., in Czechia and Slovakia) developed jointly with employers' representatives. Such proposals include, among others, suggestions to legally stipulate quota for agency workers vis-à-vis regular workers, end user responsibility for payment of salary and payroll taxes for agency workers, and equal pay for equal work regardless of the type of contract.

Efforts of collective bargaining on behalf of agency workers at company level were found only in Croatia (waste disposal), Hungary (electronics) and Romania (automotive, IT and telecommunication sectors). Slovakia stands out as the only country where unions and employers discuss options to launch sectoral bargaining exclusively for TAW. While sectoral bargaining structures were not yet established, unions signed a memorandum of cooperation with one of the three employers' organizations representing agencies and sought international resources to benchmark and support sectoral bargaining in the TAW sector. For example, Slovak unions studied sectoral collective agreements applicable to the TAW sectors in the Netherlands. Establishing sectoral bargaining institutions is novel in conditions of persistent bargaining decentralization across the EU and generally hostile conditions towards coordinated bargaining across CEE countries.

Besides legislative efforts and some limited attempts of collective bargaining in the TAW sector, we note successful efforts at organizing agency workers in Greece and unsystematic organizing efforts in Croatia and Slovenia. In Greece, successful mobilization concerned the conversion of fixed-term contracts to open-ended contracts in a service provision company, Mellon Technologies, which provided services to the National Bank of Greece. In Croatia, the Waste Disposal Trade Union in the Zagreb Holding Ltd. succeeded in organizing agency workers and persuaded the company management to transfer nearly 200 agency workers into standard employment arguing that the work implemented by them is regular and not temporary. These organizing efforts contrast with unsuccessful attempts of organizing and/or uniting agency workers in Lithuania and Romania.

Other instruments that trade unions have used in the TAW sector include services oriented towards agency workers at the company level (Croatia, Czech Republic, Greece and Romania). Greek unions are more advanced than CEE unions in considering vital identity politics, mobilizing and raising awareness on the working conditions of agency workers, and also seeking international trade union collaboration as well as alliances with local community movements with the aim to eliminate precarious work in the TAW sector. Evidence of broader alliances with other unions and local community movements in Greece include organization of food banks for precarious workers, provision of picketing support in industrial action and the use of other union sites for meetings with their constituents.

In addition to the above comparative findings, the country reports document several individual cases where unions successfully engaged in addressing TAW. Such best practices were found in Czechia, Poland, Romania and Slovenia. The Czech-Moravian Confederation of Trade Union Federations launched a campaign for decent working conditions in agency work in 2015. The aim was to consult legislative changes on agency work with all relevant stakeholders before proposing them to the government. In Poland, unions gained legislatively stipulated codetermination rights in cases when an employer intends to retain a temporary agency worker for a period longer than six months. In Romania, unions were successful in reverting to equal pay for equal work between leased and regular employees in 2015. Finally, in Slovenia unions launched a data collection campaign on the spread of agency work in 2013 prior to legislative changes. After realizing the growing trend of TAW, unions – following Austrian benchmarks – proposed to introduce quota of 10% of the share of agency workers in a particular employer. Eventually, the quota was set at 25% after tripartite negotiations.

Summing up, trade union initiatives in the TAW sector predominantly sought reduction or elimination of precarious work. The equality rationale served as the main driving factor behind such union action. A common characteristic across all countries is the lack of interest representation of agency workers at sectoral level and lacking sectoral bargaining structures. In the CEE countries, unions besides individual company-level cases almost exclusively target their actions at the national level through shaping legislation on working conditions with implications for the TAW sector. Additional union instruments include mobilization, organizing efforts and individual provision of services for agency workers. The latter union instruments were all found in Greece but remained marginal in CEE countries. The most important shift in union initiatives in the TAW sector has been found in Slovakia and partly in Czechia, where unions initially excluding agency workers from their agenda shifted to a more inclusive approach and signed memoranda of cooperation with relevant employers' association with the vision to establish sectoral bargaining structures exclusive to the TAW sector.

### **3.4 Concluding remarks**

The empirical findings from the national reports suggest that unions had a pragmatic attitude in addressing precarious work in the 10 countries investigated. In terms of **considerations driving the approach of** unions vis-à-vis labour market flexibility, the findings shows that unions emphasized equality rationales for their actions. In practice, however, unions accepted economic considerations for using different forms of (legal) non-standard forms of employment in all 10 countries investigated. Although there were attempts to eliminate specific forms of contracts of

service based on moral considerations (e.g. subcontracting in healthcare in Croatia, Greece and Poland as well as ‘junk contracts’ in Poland), by and large, unions considered that non-standard contracts are a lesser evil than job losses or being unemployed. Moreover, the equality rationale was generally adopted to prevent the undermining of working conditions for standard workers (who are the majority of union members) by workers on non-standard forms of contracts. Apart from seeking to protect their members, the organizational considerations played a key role in organizing precarious workers and providing them individual services when the organizational survival was at stake (e.g. in Hungary, Romania, Slovakia and Greece). In Czechia and Slovakia, unions in the metal sector changed their approach to agency workers from exclusion to inclusion, when they realized that this was an opportunity to gain visibility and increase their organizational capacity. Unions across all 10 countries adopted primarily a pragmatic attitude aiming at improving their social legitimacy and organizational capacity by combining equality and efficiency considerations.

Although a variety of *approaches* were adopted by unions to address precarious work in the 10 countries investigated, the findings suggest that the majority of unions’ actions seek to reduce work precariousness by using a combination of inclusive and exclusive approaches. Against a background of declining statutory support for unions’ activities in many countries and relatively weak internal legitimacy linked to the communist legacies, unions generally considered that it would be impossible to eliminate precarious work. Consequently, unions strived to reduce or eliminate the gap between the working conditions of standard and non-standard workers through both inclusive (e.g. collective agreements covering all workers in a company) and exclusive approaches (e.g. legal changes targeting equal pay for equal work independent of the type of contract). Although rare cases when unions attempt to eliminate precarious work by refusing to accept members from specific non-standard contracts exist (e.g. self-employed doctors in Greece), generally unions have a pragmatic approach accepting all workers as members; in the case of Greece, while unions did not accept self-employed doctors, they allowed self-employed nurses and other staff (who are more numerous) to join unions; also, in Poland, unions reported that they want to eliminate bogus self-employment in healthcare sector, but in practice, they accepted members with self-employed contracts. Nevertheless, in addition to elimination, reduction and retention approaches identified by Heery and Abbott (2000), unions’ actions in several countries contributed to the *expansion* of non-standard forms for pragmatic reasons; for instance, in Czechia and Hungary, retail unions supported legal amendments to expand employers’ prerogatives to use functional flexibility to prevent job losses; in Romania the healthcare union initiated a legal change in 2015 to facilitate the use of a special type self-employment to enable medical staff to top up their income by having a second work contract, as they have low wages. By and large, unions did not have an explicit strategy to deal with non-standard workers; their approaches were on an ad hoc basis fluctuating across sectors and over time, often for pragmatic reasons. However, several Greek unions have an established approach of not accepting members on work contracts without social benefits. Moreover, Slovenian unions aim at transforming non-standard forms of employment into standard contracts.

In terms of *instruments*, the empirical findings suggest that unions utilize primarily legislation, company level collective bargaining and industrial action to address precarious work. First, unions across all countries targeted governments via political lobbying, mass media and protests to improve individual and/or collective rights for the most vulnerable working groups, such workers with contracts for service (e.g. agency workers, self-employed and other subcontracted

work). Second, in a context of weak law enforcement, there have been joint actions by unions together with representatives of employers seeking to reduce informal work, particularly in the retail and construction sectors. In all countries investigated, law enforcement was more feasible in unionized companies. Third, company level collective bargaining has been used in large unionized companies across all 10 countries seeking to improve working conditions often covering all workers. Nevertheless, unions' effectiveness in fighting precarious work via collective bargaining varied, being dependent on the capacity of unions to organize and mobilize workers as well as other structural factors, such as the availability of workers with the required skills. Fourth, other forms of protests (outside collective bargaining) such as resignation campaigns of doctors in Czechia, Hungary and Slovakia, as well as mass demonstrations have been effective in reducing work precarious the healthcare sector. By and large, hard actions, such as collective bargaining, protests and political lobbying for legal changes were successful especially when used together with media campaigns, indicating that hard and soft instruments complement each other.

Overall, the comparative findings suggest that there are several interrelated factors affecting the effectiveness of trade unions' actions in addressing precarious work. *First*, the *legal framework*, including employment protection legislation, influence the effectiveness of trade unions' actions against precarious work. More specifically, the stronger the legal employment protection the more likely is for unions to be able to fight against precarious work, as seen particularly in the case of Slovenia. Nevertheless, a specific development in all CEE and Greece is the weak capacity of law enforcement, which is a key inhibitor to reduce precarious work. Moreover, the deterioration of the protection of company level union activists (by making it easier to dismiss them) and/or allowing alternative employee representatives to negotiate company level collective agreements have reduced unions' capacity to address precarious work through company level collective bargaining (e.g. Greece and Romania).

*Second*, the national and sectoral *industrial relations* context affects unions' effectiveness to address precarious work. By and large, findings reveal that unions are more likely to be effective in fighting precarious work in countries (and sectors) with consolidated industrial relations institutions, such as Slovenia and to some extent the Visegrad countries, broadly supporting the varieties of capitalism literature (Bohle and Greskovits, 2012). Unsurprisingly, the undermining of multi-employer collective bargaining by statutory provisions, particularly in countries which required financial assistance from the Troika, has inhibited considerably unions' capacity to fight against precarious work (e.g. Romania, Greece and Hungary).

Nevertheless, the perception of extremely unfair (legal or illegal) employment practices aiming at reducing labour costs, led to the establishment of *new industrial relations institutions* in several countries. For instance, despite dire circumstances for unions in Romania (Trif, 2016), the outsourcing of IT workers led to the establishment of trade unions and new bargaining institutions. Also, in the case of Slovakia (and to some degree Czechia), the highly deregulated labour market for agency workers and the wide abuse of this work form facilitated a response by social partners that lays the foundations of institutional change - namely, establishment of bargaining foundations in a previously unorganized sector not covered by collective bargaining. Not solely trade unions were a central part of this process, but also organized employers were involved in joint actions to combat unfair competition in most countries. These findings may be interpreted in the Polanyian sense of 'movement' and 'countermovement' - when there is a too

extensive movement into one direction (high precariousness combined with lack of regulation), it triggers a countermovement - birth of institutions to regulate working conditions (Polany, 2001). Thus, the findings suggest that when employers push the economic rationale to extremes, it can lead to major changes in industrial relations to offset their initiatives, based on moral considerations.

*Third*, the availability and skills of the labour force affected the ability of unions to fight precarious work. In a context of decentralization of collective bargaining and low union membership in most countries, trade unions are more likely to support precarious workers in large companies, as workers in SMEs are rarely unionized. Also, the findings suggest that trade unions' actions are more likely to improve the working conditions of highly skilled employees in sectors with labour shortages (e.g. doctors in the healthcare sectors in several countries), low labour turnover and a dominance of employees on standard contracts (e.g. the metal sector). Interestingly, in extreme cases of labour market dualization, such as in Poland, unions were successful in generating media campaigns to counteract it; in recent years, policy makers recognize the Civil Law Contracts as 'junk contracts' in Poland (Mrozowicki et al., 2013), substantiating also the Polanyian 'movement' and 'countermovement' argument.

Last but not least, the *organizational capacity* of unions is frequently the most important factor affecting unions' ability to address precarious work in various sectors and companies. The findings suggest that an essential condition that enable unions to fight against precarious work is their capacity to mobilize workers; despite a tradition of rather cooperative relations between social partners in Slovenia, trade unions (which are arguable the strongest in terms of statutory rights and have one of the highest union density in CEE) had to use mobilization or a credible threat of industrial action to improve working conditions for precarious workers after 2008. Interestingly, the findings also reveal that charismatic union leaders play a key role in enabling unions to organize and mobilize workers to improve working conditions for the most vulnerable groups (e.g. developments in the retail and IT sector in Romania). In contrast, the allegations of corruption and intimidation of union leaders reduce internal legitimacy and the organizational capacity to reduce precarious work. Finally, joint actions with other national and international unions (e.g. Czechia, Greece, Poland and Romania) as well as joint actions with employers enable unions to fight against precarious work. Overall, findings suggest that trade unions which managed to gain internal legitimacy after 2008, were the most likely to be effective in their actions against precarious work. In a context of declining statutory support for unions' activities in many countries and relatively weak internal legitimacy linked to the communist legacies, unions have to increase their *internal legitimacy* to enable them to fight against precarious working conditions for workers on standard and non-standard contracts. We argue that building organisational capacity based on pragmatic considerations is a supplementary rationale for unions' actions, in addition to efficiency, equality, and social legitimacy rationales identified by Freeman and Medoff (1984).

## **Chapter 4: Employers and precarious work**

### **4.1 Introduction**

As discussed in chapter 1, the academic debate concerning precarious work has been predominantly one-sided: while significant emphasis has been placed on the approach and strategies of trade unions, not much attention has been paid on other institutional actors, e.g. employers' associations and individual employers. With respect to the lack of emphasis on employers' associations, this arguably reflects the historical focus of the industrial relations community on the role of trade unions and the respective lack of emphasis on employer coordination (Barry and Wilkinson, 2011). In a similar vein, and as Rubery (2015) has recently argued, the policy debate around precarious work has largely concentrated on the role of social policy and has neglected the macro-economic linkages between employment and social protection, limiting thus the scope for developing attempts to change employers' behaviour.

However, employers are responsible as the core agents for deciding on the terms of employment engagement and it is employers' selection, investment and retention decisions that create segmented or divided labour markets (Osterman 1984, 1994; Rubery 1978, 2007). This is even more so in times of crisis, where it has been shown that the initiative in industrial relations shifts even further to employers (Strauss 1984). There are two reasons for this: the first is economic: in times of crisis, unemployment may provide an incentive to employers to drive down terms and conditions of employment. The second is policy-related, as in such cases changes may be implemented to support business growth and provide greater scope for management unilateralism, limiting at the same time the scope for deliberation and joint decision-making with trade unions.

Driven by these considerations, our project focused not only on the approach of trade unions towards precarious work but also on that of employers and their associations. The dual focus of the project derives from the assumption that unions and employers may have different interests and engage in different activities vis-à-vis precarious work. Similar to the analysis of trade unions' approaches and actions towards precarious work (see chapter 2), the analysis is focused here on the intended strategies and actions of employers and their associations and we consider the unintended consequences of their actions only where obvious and relevant for evaluating their overall strategy and actions undertaken in the area of precarious work.

Focusing on employers necessitates also considering the approach of their associations, as agents of individual employers. It is first important to emphasise that employers' associations in the countries upon which we focused were characterised in the pre-crisis period by significant fragmentation and institutional fragility. Most of the employers' associations in CEE countries (with some exceptions, e.g. Slovenia) were relatively new institutional actors that received weak institutional encouragement for the development of coordination. These associations had to be established again – partly with the support of the state-run chambers of commerce – after the political revolutions in Central and Eastern Europe (Funk and Lesch, 2004). Employer fragmentation and the relatively recent development of a capitalist class in these countries meant also the absence of joint efforts towards consolidating their interests; for the same reasons, governments and individual employers often viewed these associations as ones that only have a purely consultative character. Where attempts for coordination were made, these were primarily

the result of FDI and foreign firms buying up domestic firms. Aside from the particular characteristics of these economic systems that affected employer capacity for collective organisation and action, employers' associations in these countries, as in Western Europe, have been affected by developments in the recent decades. Structural changes to the economy have made organising more difficult, e.g. growth of employment in small firms in the service sector and decline of manufacturing (Traxler, 2008). Against this context, periods of crisis may accelerate these trends and present further implications for the internal organisation of employers' associations themselves.

#### **4.2 Employers' rationales vis-à-vis precarious work**

In order to assess the role of employers and their associations in dealing with precarious work, we proposed in our analytical framework four sets of rationales that may be taken into account by employers and their associations when dealing with the issue of precarious work. These include economic, institutional, social and organisational considerations (for an analysis, see part 1). Importantly, these are not independent rationales and employers may adopt a specific approach to non-standard work for any one, or a combination, of these considerations.

Our empirical findings from the 10 EU Member Studies surveyed in the project suggest that economic considerations, consisting primarily of lowering labour costs as a means to increase the competitive advantage over competitors and survive during the height of the crisis, were evident in all countries (Table 12). This was the case not only in sectors characterised by low skills (e.g. retail) but also in sectors traditionally characterised by high skills (e.g. metal and healthcare). As expected, economic considerations, e.g. towards reducing labour costs, were guiding employers' organisations actions towards increasing labour market flexibility. In this context, the extent of the impact of the economic crisis played a significant role: in cases where the crisis had significant impact (e.g. Greece and Croatia), employers considered vital the need to limit lower labour costs to survive the downturn. Such considerations were mostly prevalent in construction, metal, healthcare and retail, all sectors heavily affected by the recession and the slowdown in the economy. In this respect, reductions in the state budget affecting the financing of the healthcare system were common considerations in the majority of the countries.

At the other end, there was some evidence that economic considerations played also a role in the formulation of employer approaches designed to limit to some extent the extent of precariousness. The most obvious one was to limit unfair competition, which was a consideration that was evident in the majority of the sectors with the exception of healthcare. These were sectors that were experiencing such challenges before the crisis but there was some evidence of further aggravation in respect of unfair competition practices during the crisis. Against this context, employers expressed a, strong sometimes, interest in regulating and limiting the use of such unfair competition practices. But reference to unfair competition was rather narrowly construed on the basis of the use of under-declared and undeclared labour and did not include considerations in respect of the use of other non-standard forms of employment, such as temporary agency work and fixed-term contracts.

**Table 12: Employers' economic considerations**

Sectors	Enablers	Inhibitors
<b>Construction</b>	Lower labour costs (Latvia, Hungary, Slovakia) Extent of the economic crisis (Greece, Poland)	Limit unfair competition (Croatia, Greece, Slovakia, Poland)
<b>Healthcare</b>	Lower labour costs (most countries), extent of crisis (Czechia, Latvia), reduction of state budget (most countries)	No consideration re unfair competition/informal economy
<b>Metal</b>	Lower labour costs (most countries), extent of crisis (Slovenia)	Limit unfair competition (Croatia, Greece), reduce hiring costs (Hungary)
<b>Retail</b>	Extent of crisis (Croatia), revenue stability (Slovakia)	Limit unfair competition (Hungary, Slovenia)
<b>TAW</b>	Lower labour costs (Czechia, Lithuania), cost efficiency (Greece), increase of market share (Slovenia, Greece)	Limit unfair competition (Poland, Czechia, Slovakia, Lithuania, Hungary)

Aside from economic considerations, a range of institutional considerations, incorporating regulative, normative and cultural cognitive issues, seemed also to be at play as well (Table 13). In this context, significant enablers of labour market flexibility were considered to be the changes in the legislative framework during the crisis. These changes were exemplified in two areas: the first was in respect of employment protection legislation and included mainly liberalising further the use of non-standard forms of work but also reducing employment protection in the case of individuals on standard forms of employment (a common development across the majority of the countries surveyed for the project). The second was in terms of the changes in the capacity of collective agreements, especially higher-ones, to regulate terms and conditions of employment, and favouring company-level decentralisation (e.g. in Greece and Romania). In light of the general absence of employee representation channels at company level in most of the countries surveyed in the project, changes in the regulatory capacity of collective bargaining could allow in effect greater scope for individual negotiations between employers and employees, increasing the risk of unilaterally imposed terms and conditions of employment. Another enabler included the fragmentation of employers' interests in the industrial relations systems (e.g. in metal in Greece and Hungary), with the latter hindering significantly the capacity of employers as a collective organisation to support (higher-level) collective agreements as a means to develop joint solutions against the risk of precariousness. At the same time, pressure for flexibility came in many cases as a result of increased activity by foreign employers, transferring their own employment practices from their home countries to the host ones (e.g. Lithuania).

On the constraining side, regulatory changes in public procurement were seen in some instances as providing scope for limiting the extent of labour market flexibility (e.g. Croatia, Greece and Poland). Similar considerations were sometimes evident in respect of the operation of extension mechanisms as a means of protecting their own members from unfair competition (e.g. Croatia). Preference for ‘controlled labour market flexibility’ was also expressed by employer representatives in specific sectors (e.g. metal in Slovakia and retail in Greece).

**Table 13: Employers’ institutional considerations**

Sectors	Enablers	Inhibitors
<b>Construction</b>	Changes in the legislative framework (Greece, Romania), pressure for flexibility from foreign investors (Lithuania)	Public procurement legislation (Croatia, Greece, Poland)
<b>Healthcare</b>	Extent of structural labour market reforms (Greece)	State interference in hospital administration (Slovenia)
<b>Metal</b>	Fragmentation of employer interests (Greece, Hungary)	Protection of members from unfair competition (Croatia), regulation of flexibility (Slovakia)
<b>Retail</b>	Constraining bargaining framework (Greece, Romania), business taxation (Hungary)	Support for extension of collective agreements (Croatia), controlled labour market flexibility (Greece)
<b>TAW</b>	Lower employment protection legislation (Czechia)	Role of employers in the IR system (Greece)

There was somewhat less evidence of social considerations by employers playing a role in enabling labour market flexibility and increasing the scope for precariousness (Table 14). However, there were some exceptions. The first concerned the need of employers to contain disruption in sectors where the effect of such disruption would be greatest, e.g. healthcare and metal in Poland, involving, among others, having recourse to non-standard forms of work (e.g. outsourcing). Considerations of a more positive nature were expressed in terms of using non-standard forms of employment as a means to promote employment in the economy more generally (e.g. metal in Greece). A specific case was made in the case of temporary agency work: e.g. that the latter would promote employment in its capacity as acting as a stepping stone for full and open-ended employment. On the other hand, a variety of social considerations seemed to be at play in respect of inhibiting greater flexibility in the labour market. Among others, there was rhetoric of decent working conditions in some sectors including construction, healthcare and agency work (especially in the case of Lithuania). The issues of public accountability (e.g. healthcare sector in Greece) and avoidance of dismissals (e.g. Slovakia) were also mentioned in this context. The view of employees as consumers but also as a source of human capital for employers (e.g. retail in Greece) acted as a rationale for arguing in favour of controlled flexibility

in the labour market. The recent institutionalisation of the temporary agency work sector and the challenges therein for employers' associations were translated into a preference for controlled flexibility as a means to entrench the social legitimacy of such practices as well as that of the employers' associations representing employers providing such services.

**Table 14: Employers' social legitimacy considerations**

<b>Sectors</b>	<b>Enablers</b>	<b>Inhibitors</b>
<b>Construction</b>	No evidence of social legitimacy considerations	Health and safety (Lithuania, Poland, Romania), decent working conditions (Lithuania)
<b>Healthcare</b>	Containment of disruption (Poland)	Accountability (Greece), decent working conditions (Lithuania)
<b>Metal</b>	Containment of disruption (Poland); promote employment in the economy (Greece)	Avoidance of dismissals (Slovakia)
<b>Retail</b>	No evidence of social legitimacy considerations	Employees as consumers but also source of human capital (Greece)
<b>TAW</b>	TAW as a stepping stone (Hungary, Greece)	Legitimacy of TAW practices (Greece, Poland), decent working conditions (Lithuania)

Finally, organisational considerations were considered high in the agenda of employers (Table 15). On the enabling side, these included changes in the organisational structure of the companies as well as in the business and production cycles (e.g. Poland, Croatia and Hungary). Changes in technology as well as the need for efficiency were also considered important considerations for promoting labour market flexibility in the case of retail (e.g. Hungary) and healthcare (e.g. Slovakia). On the inhibiting side, issues that were considered important by employer representatives were the need to attract and maintain skilled labour (e.g. Hungary and Slovakia), to promote vocational education and training (e.g. Poland) and respond to labour shortages (e.g. Croatia and Czechia). As a result, there was an orientation towards reconsidering the role of labour market flexibility: this was evident in a number of sectors and countries.

**Table 15: Employers’ organisational considerations**

Sectors	Enablers	Inhibitors
<b>Construction</b>	Changes in organisational structure (Poland), business cycle (Hungary)	Vocational education and training (Croatia, Poland), skills development (Lithuania, Slovakia)
<b>Healthcare</b>	Hospital efficiency (Slovakia)	Labour shortages (Croatia, Czechia)
<b>Metal</b>	Production organisation (Croatia), organisational commitment (Poland)	Attract skilled labour (Hungary, Slovakia), vocational education and training (Poland)
<b>Retail</b>	Business organisation (Greece, Poland, Slovenia), technological changes (Hungary)	Labour turnover (Slovakia), labour shortages (Croatia)
<b>TAW</b>	Business organisation (Latvia)	Labour shortages (Czechia)

### 4.3 Employers’ approaches vis-à-vis precarious work

Driven by these sets of considerations, employers’ associations and employers may respond to the risk of precarious work in particular ways. As discussed in chapter 1, we view expansion, status quo, reduction and elimination as the objectives of the employers’ strategies and approaches (Figure 4). While in some cases employers and their associations may develop specific initiatives, it is important to acknowledge here that, the notion of ‘initiative’ implies an element of strategic freedom which employers may simply not have and employers may act either as individuals or collectively (Streeck, 1987: 281).

In the construction sector, elimination was completely absent as an objective among employers’ associations (Table 16). Instead, the majority of approaches were clustered around the preservation of status quo (e.g. Czechia, Greece, Hungary, Lithuania, Romania and Slovakia). In this respect, considerable emphasis was placed on regulatory stability. A variant of this included an emphasis, common across a number of countries, on recalibrating the status quo in order to maintain flexibility and reduce/eliminate the scope for unfair competition through the use of informal work. Evidence of some differentiation within single countries was provided: in Croatia, for instance, preference for expansion of non-standard forms of work was coupled with support for collective bargaining. Reduction constituted an objective for a smaller number of countries (Croatia in respect of collective bargaining and public procurement, Lithuania, Poland and Slovenia) and expansion as an objective was only clearly borne out in Croatia (but only to partial extent) and Latvia.

There was limited evidence of clear strategies on the part of employers in respect of including, separating or excluding precarious workers. Examples of an inclusive approach were reported in the cases of Croatia and Slovakia: in Croatia, the adoption of this approach was seen as a means to counter the rise of informal work, while in Slovakia, employers joined forces with unions to

improve conditions for self-employed. In Greece, collective bargaining was used to protect young workers in the sector from the application of the lower national minimum wage levels. In countries where employers considered legislation as the best means to deal with such issues (e.g. in Czechia), preference was expressed for excluding precarious workers as any action on behalf of employers would not be sufficient. The Polish and Romanian cases provided example of separation, with employers offloading the responsibility of dealing with precarious work to their subcontractors.

In healthcare, the split between the four objectives between countries was more evenly distributed (Table 16). In contrast to the rest of the sectors, there was a significant number of countries where elimination of precarious work was considered by the employer side. Possible reasons for the prevalence of elimination in healthcare included the shared social norms regarding the role of healthcare services in the society but also the fact that in many cases, it was the state that was considered responsible for the austerity-related measures. Among others, the objective of elimination was prevalent in Greece and Slovakia. Interestingly, in neither of these cases was there an actual elimination of precarious work in practice. For instance, in Slovakia individual hospitals were able to comply creatively with the legislation and as such continued using non-standard work in respect of nurses and doctors. In Greece, the precariousness of the cleaning support staff continued despite recent changes designed to eliminate this problem. At the other end, expansion of labour market flexibility was sought by employers in Croatia, Hungary and Poland. The preservation of the status quo was considered by a larger number of countries (e.g. Hungary, Latvia, Romania and Hungary) and reduction was only considered in two cases (Czechia and Lithuania). In contrast to the construction sector, the adoption of an inclusive approach to precarious workers was reported by a number of employer representatives in the healthcare sector. Evidence of an inclusive approach was provided in Croatia, Czechia, Greece, Poland and Slovenia. Instead, a strategy of separation was adopted in Hungary; similar developments were reported in Slovakia (albeit there was some evidence there of exclusion as well).

Metal was one of the sectors, where the majority of employers in the countries surveyed were in favour of expanding labour market flexibility (Table 16) (Croatia, Czechia, Greece, Lithuania, Slovakia, Poland and Romania). Most important issues concerned here increasing working time flexibility and liberalising further the use of non-standard workers (including temporary agency workers) in the sector. In four countries, the preservation of status quo was favoured (Croatia, Poland, Romania and Slovenia) while in three (Hungary and Lithuania) there was some evidence of an objective to reduce labour market flexibility. What came across here was the differentiation was found between large employers, who were reportedly in favour of reducing the scope for labour market flexibility and SMEs (e.g. Lithuania). Evidence of an inclusive approach was provided in Croatia (employers were in favour of including trainee rights in collective bargaining) and Slovakia (employers did not treat workers in *flexiconto* or temporary agency work exclusively but expressed instead preference for the expansion of working time flexibility across the entire workforce). A separation approach was pursued in Czechia and Hungary, while exclusion of non-standard workers was reported in Greece, where collective agreements often did not cover non-standard workers.

In retail, the majority of employers were in favour of greater labour market flexibility (Table 16) (Croatia, Czechia, Hungary, Lithuania, Poland –SMEs-, Slovakia and Slovenia). Preference for

preservation of the status quo was reported in the following countries: Greece (large employers), Hungary, Latvia and Romania) and reduction was instead the objective in Czechia, Greece (SMEs), Poland (large employers) and Romania (in terms of informal work). Again here, differentiations in the approach between small and large employers were found. An example here was that of Greece, where big retail chains were in favour of extending/preserving the status quo but employers' associations representing smaller companies were instead in favour of containing some elements of labour market flexibility whilst preserving the status quo. The opposite was true in the case of Poland, where smaller employers were in favour of more flexibility but large were not. Variety in the preferred approach towards precarious workers was also reported. In Croatia, Greece, Poland and Slovakia inclusiveness was the preferred strategy among employers. An interest in limiting the scope for discrimination was reported in the case of Slovakia, with employers avoiding a differentiation between precarious and other workers; however, divergences were found in respect of the narrow scope of collective agreements which excluded in some cases agency workers or student workers. In a rather different vein, the Romanian case constituted a variant, with employers expressing preference for negotiating sectoral collective agreements that would be *erga omnes* applicable, indicating thus an inclusive approach. In contrast, evidence of separation was provided in Czechia, where collective agreements applied only to permanent employees, while no clear strategy was evident in Slovenia.

Finally, in temporary agency work, the general preference was for greater flexibility across all countries and/or maintenance of status quo in respect of regulation. Employers and their associations in Croatia, Czechia, Greece, Latvia, Poland, Romania and Slovenia supported the expansion of agency work, while the preservation of the status quo was pursued by employers in Croatia, Czechia, Hungary and Lithuania. In some of the cases, a mixture of approach was adopted, reflecting again differences between employer associations. This included Czechia where APA was in favour of further deregulation in contrast to APPS, which supported stricter regulation in order to eliminate unfair competition practices. The only case where reduction was considered was in the case of Poland in respect of the use of civil law contracts. But even in this case, the general preference was for greater flexibility in the use of agency work. In terms of the employers' approach to precarious workers, an inclusive approach was adopted in Czechia and Romania, albeit in the latter it was largely the result of statutory intervention. But in Greece, employers and their associations refused to recognise the newly established trade unions, implying an exclusive approach and a separation approach was observed in Poland.

**Table 16: Employers’ approaches vis-à-vis precarious work**

Sector	Expansion	Status quo	Reduction	Elimination
<b>Construction</b>	HR (substantive rights), LV	CZ, GR, HU, LT, RO, SK	HR (support for CB and procurement) LT, PL, SL	No evidence
<b>Healthcare</b>	HR, HU, PL	HU, LV, RO, HU	CZ, LT	GR, SK, LT, SL
<b>Metal</b>	HR, CZ, GR, RO, SLO, LT (SMEs), SK, PL	HR, PO, RO, SL	HU, LT (large employers)	No evidence
<b>Retail</b>	HR, CZ, HU, LT, PO (smaller employers)	HR, GR (large employers) HU, LT, RO	CZ, GR (SMEs), PO (large employers), RO (informal work)	No evidence
<b>TAW</b>	HR, CZ, GR, LT, PO (TAW expansion), RO, SL	HR, CZ, HU, LT	PL (civil law contracts)	No evidence

#### 4.4 Employers’ instruments vis-à-vis precarious work

Having identified employer considerations, their approaches and objectives in respect of precarious work, the third step in developing our analytical framework is distinguishing between the forms of action that employers have at their disposal in order to reach their goals set out in the adopted approaches vis-à-vis precarious work. Building on the work by Keune (2011), we distinguish a number of instruments that may be used by employers’ associations when engaging with their members, governments and trade union: information, consultation, negotiation and organising (for details, see chapter 1). In this context, the relationship between employers’ associations with other actors, e.g. the state and trade unions, is particularly important and our project paid particular attention to the dynamics in these areas and how these relationships have evolved since the emergence of the crisis.

When considering the relationship between employers and unions, a primary mechanism for dealing with precarious work is collective bargaining. Particular importance can be provided here to the role especially of higher-level bargaining, as it has the capacity to lead to the coordination of employer approaches at company level and achieve hence greater effectiveness when dealing with labour market flexibility and its implications for precarious work. In this respect, the findings suggest that there were three categories of systems/countries depending on the extent of which collective bargaining has been used to deal with aspects of labour market flexibility/precariousness. The first concerns systems/sectors where the role of collective bargaining remained unchanged. This category includes two further sub-categories. The first includes countries/sectors where collective bargaining (at higher-level) was under-developed and

no change took place during the crisis (including using bargaining as a means to deal with precarious work). In terms of countries, this was the case predominantly in Poland, Latvia, Lithuania and to some extent Czechia. In terms of sectors, the temporary agency work sector was the clearest example: the absence of higher-level bargaining could be attributed to the recent institutionalisation of the sector and the fragmentation of employer and union interests alike. The second sub-category (of no change during the crisis) refers to countries/systems where collective bargaining was still used during the crisis as a means to respond to the changing context and the rise of precarious work. In terms of countries, there were very few examples where such developments were observed (Croatia being somewhat close to this). In terms of sectors, preservation of collective bargaining was found mostly in the metal sector. The second type concerns countries/sectors, where the role of bargaining declined. The majority of countries were located in this category (Greece, Hungary, Romania, Slovakia, Slovenia, Poland - steelwork). Two reasons explain this: the first was direct policy interventions designed to reduce the role of collective bargaining. This was the case in Greece, Romania and Hungary. The second reason was rather persistent bargaining blockages by the parties (e.g. in Slovakia and Poland).

Besides higher-level bargaining, where still used, other forms of interaction between employers and trade unions were developed to deal with the changes in employment practices since the emergence of the crisis. Broadly speaking, these could be divided into four types of actions. The first concerned traditional company-level bargaining: this was the case in countries where collective bargaining at company level was relevant even before the crisis (e.g. Poland and Lithuania). However, some evidence was provided of increasing reliance on company-level bargaining in other countries as well (e.g. Greece), which used to rely on high-level bargaining in the pre-crisis period. The second form of interaction concerned soft initiatives jointly undertaken by both employers' associations and trade unions. Evidence of such attempts was mostly provided in the case of the construction sector, where health and safety issues or the codification of skills proved to be issues upon which the industrial relations actors were able to develop some joint action (e.g. Poland). The third concerned joint action (with unions) targeted at the policy decision-makers. Attempts to influence reforms in public procurement legislation towards incorporating social clauses, found in the cases of Croatia and Poland, could be included here. Finally, there was even some evidence of organising social/civil action on the part of employers, with example of the retail sector in Greece (e.g. opposition against the Sunday trading rules) being one of the most notable ones.

However, our empirical findings suggest that the most important interlocutor for employers was not trade unions but the state. In all countries, there was evidence to suggest that employers directed the majority of their efforts towards influencing public policy making in the area of labour market regulation. What explains this preference towards attempts for input into policy decision-making and lobbying for regulatory changes? There are possibly three main reasons for this. The first is that interaction with the state was seen by a number of employers and their associations as a means to compensate for the decline/collapse of collective bargaining. This was, for instance, the case in Greece and Romania, where in the absence of regulatory support for higher-level bargaining, employers' associations intensified their efforts towards using political instruments, e.g. political lobbying and social dialogue to influence policy decision-making processes. The second reason was that in many of the countries surveyed in the project (e.g. Croatia, Hungary and Poland) statutory law constituted traditionally the main source for determining the terms and conditions of employment. The primacy of statute in setting out labour

standards meant that employers were more inclined to focus their attention in influencing the nature and direction of legal reforms. Finally, evidence suggests that employers and their associations saw providing input to policy decision-making as a complement and not a substitute to other instruments, including collective bargaining and unilateral initiatives (e.g. Croatia).

Besides attempts to develop joint action with unions and influence policy decision-making, our empirical findings suggest that two other types of activities were undertaken increasingly by employers and their associations. The first activity concerned the growth of voluntary, unilateral initiatives at sectoral level (by employers' associations) designed to build and disseminate benchmarks on employment standards among their members. The clearest case here was of ethical codes of conduct that were developed in the temporary agency work sector (e.g. Czechia, Greece and Poland). This can be attributed to the recent institutionalisation of the sector as well as the need of employers' associations to secure social legitimacy not only within individual employers but also within the wider society. The second activity concerned similar activities, e.g. guided by ideas developed in business ethics and corporate responsibility, at company level. Such company-level initiatives, which were designed to promote, was mostly evident in industrial relations systems that lacked sectoral bargaining (e.g. Poland).

#### **4.5 Concluding remarks**

In light of the empirical findings from the national reports, we can make a number of observations regarding the role of employers when dealing precarious work. First, in terms of considerations driving the approach of employers vis-à-vis labour market flexibility, our findings were not surprising in respect of the emphasis that employers placed on economic considerations and in particular the reduction of labour costs. At the same time, there was evidence to suggest that other considerations inhibiting recourse to labour market flexibility were considered across different countries and certain sectors. Such considerations included issues related to social legitimacy in the case of healthcare, for instance, institutional changes (e.g. policy reforms affecting employment protection legislation and collective bargaining affecting the majority of the countries since the start of the crisis) and organisational issues (e.g. changes in technology and production organisation).

Moving on to consider the variety of approaches adopted by employers, our findings suggest that the majority of employers were in favour of maintaining or expanding (in certain countries and sectors) labour market flexibility. However, this was qualified to some extent. So, even in cases where employers were in favour of expanding labour market flexibility, there was support for the development of 'controlled flexibility', e.g. a clear regulatory framework that would reduce the scope for unfair practices. But it is important to add here that in the majority of these cases, unfair practices were conceptually associated by employers' representatives with informal work; in very few cases (e.g. the retail sector in Greece) did these incorporate other forms of precarious work (e.g. very low paid work and non-standard contracts). Further, the study confirmed the existence of divisions between different employers' associations. The clearest case of this was found in the temporary agency work sector: in a number of countries, different employers' associations fought for regulatory space to influence policy-makers, public opinion but also to mobilise and organise existing and potential members. Besides these issues, there was evidence to suggest that the employers' approaches (in terms of including, separating or excluding precarious workers) were not always formulated and as such did not constitute specific strategies.

Finally, in terms of instruments, our empirical findings suggest that in respect of labour market flexibility the state was the preferred party for interaction for employers. In this respect, most of their attempts concentrated on shaping benchmarks on employment standards, participation in consultation exercises and developing political lobbying activities for/against the expansion of precarious work. In few cases, reliance on the state was complemented by other activities, which fell into two main categories. The first was joint actions with trade unions: however, an important caveat in such cases was the withdrawal of regulatory support for collective bargaining, reducing hence the incentives for social dialogue and joint action in respect of the risks associated with the rise of precarious work. The second concerned the development of unilateral, voluntary driven initiatives at both sectoral and company-levels. These initiatives, which were clearly inspired by a discourse of corporate responsibility and business ethics, indicated a shift towards unitarist HRM policies. In some cases, there is still some support for collective bargaining (e.g. Croatia and Greece).

To conclude, our findings suggest that in line with previous research, the initiative shifted indeed to employers during the crisis. In this respect, our research illustrated how despite the limited (until hitherto) conceptualisation of employers in the academic and policy debates around precarious work employers' choices are playing an important role in the growing trends towards precariousness. In conjunction with the operation of structural (e.g. unemployment and extent of economic crisis) and policy (e.g. labour law deregulation) reasons, they redefine working and living conditions. In line with the idea of reconsidering the role of employers as core agents of labour market segmentation (in the words of Rubery, 2015), different mechanisms can be developed to counter these trends and address effectively the implications from the rise of precarious work. It is these issues that the next chapter turns to examine.

## **Chapter 5. Conclusions**

### **5.1 Introduction**

The world of work has changed: transformations in the organisation of work, austerity policies affecting labour law, the retrenchment of welfare policies and deepening inequalities are challenging the nature and role of industrial relations actors in national systems of industrial relations. A central feature of the world of work today is the transfer of risks from employers to the workforce. A process of so-called “de-mutualisation” has been set in motion consisting of the shifting of risks and the bearings of costs of risks away from a set of entities (in the case of the labour market, the state, the employers and the workers) back to the individual workers (Countouris and Freedland, 2013). In the context of precarious work, this has taken place in a variety of ways (Davies, 2013). The most obvious is the shift from employment to self-employment. The de-mutualisation aspect is found here mostly in the case of bogus self-employment and self-employed individuals that are though economically dependent. These trends have become particularly pronounced in the recent years with the growth of the ‘platform’ or ‘gig’ economy. Another example here includes the shifting of the risk of a drop in demand onto the workforce. Variable working hours have been used extensively in a number of EU Member States, especially since the emergence of the economic crisis. Rather than being guaranteed a

particular level of hours and income each week, many workers have a zero-hours contract or may be casuals or may have simply flexible working hours. The shifting of the risks back to individual workers is further illustrated when considering the implications of fragmentation of organisations for workers, e.g. in the case of complex supply chains.

Against this context, PRECARIR aimed to investigate and critically assess the role of industrial relations actors in addressing precarious work in Croatia, Czechia, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia since 2008. The project focused on the initiatives and responses that trade unions and employers' associations developed: to address the rise of the dual labour market, and especially the growth of precarious work in five sectors, namely public healthcare, the metal industry, construction, retail and TAW; to protect, represent and improve through collective bargaining and social dialogue the social rights of vulnerable employee groups in precarious employment; to adjust industrial relations structures and bargaining procedures to better reflect the character of the post-crisis dual labour market.

In focusing on these issues, PRECARIR was innovative in three main ways. The first was its exclusive focus on EU Member States in the periphery of Europe. With certain exceptions (e.g. Koch and Fritz, 2013), academic work on precarious work has tended to focus on the precarization trends in the 'old' EU Member States. PRECARIR instead focused exclusively on Central and Eastern Europe and Greece, the latter representing an example of an industrial relations system undergoing radical changes as a result of the recent economic crisis. The second distinctive aspect of PRECARIR concerned the actor-oriented approach of the project. This meant focusing on the role of social partners in addressing precarious work in these countries. Importantly, the research examined not only the role of trade unions but also that of employers' associations, an actor often neglected in industrial relations studies including those dealing with precarious work. The issue of effectiveness of the actors' approaches vis-à-vis precarious work was here crucial. In this context, our project did not assume *a priori* that the industrial relations actors would necessarily adjust their approaches and instruments when dealing with the changes in the world of work. Instead, it was recognised that this may not be the case and a number of considerations would be relevant here, including the inability of the actors to adjust their approaches or the belief in the effectiveness of their instruments dealing with these changes at present.

The third innovative aspect of the project concerned the definition of precariousness. Despite the increasing number of studies dealing with precarious work, the term remains problematic and contested. The vagueness in its definitional reach and the real extent of 'precarization' have been intensely debated both within the academic community and the policy-level at national and EU levels. In this context, there is a risk that the terms "non-standard employment" and "precarious work" may be conflated and many academic studies have sought to associate precarious work with particular types of employment contracts, including part-time, fixed-term and agency work. However, as McKay suggests (2013: 199), 'this promotes a false separation between different forms of contract, attributing precarious work to some forms only and primarily', leading to the exclusion of standard, full-time and permanent employment from being considered as exhibiting elements of precariousness. Informed by an approach that considers that it is necessary to develop a holistic notion of precariousness, PRECARIR sought to assess the causes and consequences of precarious work by focusing on the intersection of economic, social and institutional factors. In this respect, a multi-dimensional approach to precariousness was adopted focusing on the

following aspects: income security, job security, social security, working time and collective voice.

## **5.2 The incidence and nature of precarious work in CEE countries and Greece**

The first task of the comparative project was to assess the changes in the nature and extent of precarious work in the ten EU Member States. Importantly, the mapping and review of the main legal and labour market characteristics related to precarious work (provided in chapter 2) provided evidence of significant increase in precarious work across the countries and sectors examined for the project. In a context of weak law enforcement, deepening of the economic crisis in a number of countries, policy reforms associated with labour market deregulation and decrease in unions' role and influence, our findings confirmed a general trend towards an increase of precarious work. Importantly, while the growth of precarious work has been traditionally associated with the growth of non-standard forms of employment, our findings strongly suggested that precariousness was in many cases the outcome of the erosion of the standard employment relationship. Confirming previous work that suggested that in times of crisis the initiative shifts to employers (Strauss, 1984), there was evidence to suggest that in respect of the changes here, e.g. affecting those on standard employment contracts, it was predominantly the conduct of employers that contributed most to the precarization trends. The developments related partly to inadequate earnings, limited social protection and restrictions in terms of the effective exercise of the right to organise and bargain collectively. This was the case in all countries and sectors examined in the project except the case of TAW.

There was still evidence to suggest that those workers on non-standard for employment, including here dependent self-employment and informal workers, till, were more exposed to precarious working conditions across the 10 countries. The exposure of such groups was greater in the construction and the retail sectors, often doing work for small domestic firms. In contrast, large (often multinational) firms, particularly in the construction and metal sectors relied more often on outsourcing to reduce labour costs. The share of agency workers, fixed-term and part-time employees rose across the countries but less than expected in some countries (e.g. Croatia and Romania) due to labour shortages associated with massive emigration and the fact that employers had sufficient leverage to force changes, including on working time, to workers on full-time open-ended contracts. Thus, the labour market deregulation meant the shifting of the initiative in industrial relations from unions and employers' associations to individual employers by widening their prerogatives to set employment conditions, which in turn, increased legal and illegal forms of precarious work in all countries investigated.

While precarious work became more prevalent across the EU Member States examined in the project, our evidence suggests that there were still significant differences in terms of the prevalence of precarious work among employers between different countries but also between different sectors within a single country. Across the 10 countries, there was cross-country variation in the level of labour dualization:

- There was a *reduction* of labour market dualization in Hungary, Greece, Romania and Slovenia after 2008 due to the erosion of working conditions for employees on standard contracts, by weakening of employment protection legislation;

- There were very *limited changes* in the level of labour market dualisation in Latvia and Lithuania after 2008, primarily due to strengthening protection for non-standard workers, while relaxing job security for standard employees.
- There was an *increase in labour market dualization* in Croatia, Czechia, Slovakia and Poland, primarily due to a rise in the share of non-standard contracts.

The project explored the reasons behind this phenomenon, including changes in the regulation of the labour market, especially in the context of the economic crisis, but also more structural issues including increasing competition between companies, shifting organisational practices at company level and changes in the labour market (e.g. increase of migrant workers). The varieties of labour market dualization were primarily contingent on the different policy-level responses to the economic crisis and the process of EU integration, with these driving a process of labour market deregulation in a number of countries. These developments were refracted at domestic level and interacted with the degree of institutional embeddedness of the industrial relations actors themselves, their approaches towards precarious work and the role that social dialogue and collective bargaining played, if at all, in this context, to produce different to some extent effects in the countries and sectors studied in the project.

Interestingly, there was evidence to suggest that the trends towards precarious work were common across CEE countries and Greece. It may be inferred that the economic crisis and the resulting crisis-related policy measures in the labour market, affecting individual employment rights and wage determination via collective bargaining initiated a process of convergence between CEE countries and Greece, with Greece converging to the policies and practices in the labour market of CEE countries. This confirms the argument of Schulten and Müller (2014) that the extent to which the relevant regulatory framework in Greece departed from the pre-crisis legal/institutional model of collective bargaining as a result of the crisis-related measures was particularly pronounced and had the potential to lead the Greek system of collective bargaining onto a different institutional trajectory, one that is possibly closer to the model of absent or single-employer bargaining of the UK and the majority of Central and Eastern European countries.

Another explanation, which is not necessarily alternative but may be complementary to the role of the crisis in bringing up convergence between CEE countries and Greece, points to the *de jure* but primarily *de facto* similarities in the industrial relations systems of CEE countries and Greece in the pre-crisis period. Similar to the CEE countries, the regulation of the labour market was premised on joint regulation between the social partners but with a strong interventionist role of the state, via primarily statutory regulation but not only. The state-centred orientation of the Greek system of industrial relations meant that the impact of the ‘structural labour market reforms’ would have and it had indeed a more pronounced effect on the nature and extent of precarious work. Furthermore, Greece has been traditionally characterized by high shares of self-employment, indeed the highest in the EU. Similar to CEE countries, the rates could disguise employment relationships and as such a significant percentage of these individuals could be bogus self-employed.

### 5.3 The role of the industrial relations actors in dealing with precarious work

The rise of precarious work has implications for all industrial relations actors, including predominantly trade unions but equally importantly employers and their associations. As explained earlier, our project did not assume *a priori* that the industrial relations actors would necessarily adjust their approaches and instruments when dealing with the changes in the world of work. Against a context of increasing labour market deregulation and structural changes affecting negatively union density rates, trade unions are faced with challenges in terms of the objectives underlying their approach to precarious work and the instruments used to deal with the changes in the world of work. In both CEE countries and Greece, the role of unions in the pre-crisis period shared some common characteristics, involving, among others, a reliance on external legitimacy provided most often by the state with this impacting upon their internal legitimacy, including the necessity to organise and mobilize workers to prove their *raison d'être* (Crowley, 2004). These distinctive characteristics of the systems became crucial when the economic crisis hit Europe in 2008-2009. Crisis-related policy reforms targeted specifically the systems of wage determination and collective bargaining in a number of EU Member States examined in the project (e.g. Croatia, Greece, Hungary, Romania and Slovakia). Institutional considerations influenced substantially union approaches vis-à-vis precarious work across all EU Member States, with social legitimacy objectives having an implicit influence on unions' strategies and activities.

Driven generally by a combination of equality and efficiency rationales, trade union approaches and instruments to deal with precarious work varied across sectors, with these being contingent on sector-specific internal (e.g. organisational capacity) and external (e.g. employers, state regulation and state of the market) factors. There was variety in terms of their strategies across countries from aiming to convert non-standard work arrangements to standard employment in Slovenia to supporting the economic rationale of precarious work forms in Latvia. In doing this, unions adopted generally an inclusive approach to non-standard workers, but in some cases developed separate activities targeting specifically these categories of workers.

When it came to the instruments used by unions to deal with the rise of precarious work, those were consistent with pre-existing practices at national and company levels. Sector-level instruments were poorly developed except for Greece and somewhat Slovenia and Slovakia, this being consistent with the broader literature around the types of industrial relations systems across these countries (Bohle and Greskovits, 2012). While in the pre-crisis period, union legitimacy was often intertwined with state support (Trif, 2013), our findings across the different countries and sectors suggest that since the emergence of the crisis unions' initiatives to improve precarious employment conditions through legislation often failed. However, such failures had in certain cases unintended consequences, e.g. they sometimes resulted in innovative or 'recombined' old and new strategies to fight against precarious work. Some interesting cases were reported, including organizing in response to outsourcing (the case of Romanian trade unions in metal), mobilization, empowerment (e.g. Greece and Czechia) and establishing bargaining mechanisms from scratch in previously unorganized sectors (e.g. the case of TAW in Slovakia). Importantly, the main implication of these union approaches and instruments was the reduction of precarious work, albeit it was simultaneously recognised that it would be impossible to eliminate such forms of work.

A distinctive feature of our project was the focus on employers and their associations as key agents responsible for policies and practices affecting the nature and extent of precarious work. Confirming previous studies, our research illustrated how the initiative in the labour market shifted to employers during the crisis. Despite hence the limited attention given to employers in the academic and policy debates around precarious work, their choices and how these are articulated and promoted by their associations are playing an important role in the growing trends towards precariousness. In conjunction with the operation of structural factors (e.g. unemployment and extent of economic crisis) and policy development (e.g. labour law deregulation), employers have been able essentially to redefine working and living conditions. Our findings suggest that a range of economic considerations was taken into account by employers in a number of countries and sectors, leading often to calls for labour market flexibility. However, this was far from universal. There was some evidence to suggest that in certain sectors, non-economic considerations were also important, inhibiting in certain cases the case for greater labour market flexibility. Such considerations included issues related to social legitimacy in the case of healthcare, for instance, institutional changes (e.g. policy reforms affecting employment protection legislation and collective bargaining affecting the majority of the countries since the start of the crisis) and organisational issues (e.g. changes in technology and production organisation).

Even in cases where the approach of employers was clearly oriented towards favouring labour market flexibility, the type of labour market flexibility sought was not ‘disorganised’; instead, calls were made for ‘controlled flexibility’, e.g. a clear regulatory framework that would reduce the scope for unfair practices. But it is important to add here that with very exceptions, unfair practices were conceptually associated by employers’ representatives with informal work. Further, the study confirmed the existence of significant divisions between different employers’ associations. The clearest case of this was found in the temporary agency work sector: in a number of countries, different employers’ associations fought for regulatory space to influence policy-makers, public opinion but also to mobilise and organise existing and potential members. Besides these issues, there was evidence to suggest that the employers’ approaches (in terms of including, separating or excluding precarious workers) were not always formulated and as such did not constitute specific strategies.

Finally, in terms of instruments, the state was the preferred addressee of the initiatives developed by employers’ associations. In this respect, most of their attempts concentrated on shaping benchmarks on employment standards, participation in consultation exercises and developing political lobbying activities for/against the expansion of precarious work. In few cases, reliance on the state was complemented by other activities, which fell into two main categories. The first was joint actions with trade unions: however, an important caveat in such cases was the withdrawal of regulatory support for collective bargaining, reducing hence the incentives for social dialogue and joint action in respect of allocating the risks associated with the rise of precarious work. The second concerned the development of unilateral, voluntary driven initiatives at both sectoral and company-levels. These initiatives, which were clearly inspired by a discourse of corporate responsibility and business ethics, indicated a shift towards unitarist HRM policies.

## 5.4 A future beyond precarious work

Confirming previous studies (McKay, 2013), our project emphasised the strong linkages between precarious work and the process of demutualisation of risks in the employment relationship. In simple terms, a consequence of the growth of precarious work has been a shift of risk from the employer to the worker. This is the so-called case of ‘vertical demutualisation’ (Countouris and Freedland, 2013), whereby employing enterprises use the precarisation of work as a way of transferring to their workers risks which they themselves previously carried. Taking into account that employers are core agents of labour market segmentation (Rubery, 2015), it may be then that it is employers’ conduct designed to re-allocate risks that is leading to the growth of precarious work. In this respect, the role of the legal/institutional framework and the approach of the main industrial relations actors is crucial in countering these trends and addressing effectively the implications from the rise of precarious work.

In light of our actor-centred perspective, our recommendations are designed to address the main industrial relations actors responsible for dealing with precarious work in the labour market, e.g. states, employers’ associations and trade unions. Owing to the distinctive characteristics of the national industrial relations systems but also the labour markets more generally, it would be utopian to outline here specific policy recommendations that would be applicable across the countries included in the study. This is even more the case in respect of employment standards and precarious work: as Barbier (2013) has aptly illustrated, genuine and significant meanings of precarious work require the embedding of concepts in each political culture and in their constant evolution. However, what can be considered instead here is a set of general principles that can then be used to inform the debate around the formulation of specific recommendations at each of the countries.

In this context, it is possible to distinguish a set of principles on the basis of the addressees. The first address is the state. In this respect, consideration should be provided on the nature of the interplay between statutory rights and the operation of collective bargaining. The role of the institutional framework is here crucial. Informed by the acknowledgement that it is the employers’ actions that may create and/or sustain segmented labour markets, it is first necessary to re-orient the institutional framework towards a re-mutualisation of the risks associated with the employment relationship. Integral to this would be a shift of the balance of regulation away from a reliance solely on individual employment rights established via statutory regulation towards extending collective bargaining.<sup>4</sup> While support for collective bargaining has traditionally differed per country and even sector, it cannot be disputed that collective bargaining is an essential mechanism for inclusive labour markets.

A recent OECD report (2014) argued that ‘reducing the legal extension of collective wage agreements might lower labour costs and promote employment, especially for the low-skilled, which is good for growth but it might also contribute to widening wage distribution’ (OECD 2014: 115). In a similar vein, the IMF has also recently stated that ‘more lax hiring and firing regulations, lower minimum wages relative to the median wage, and less prevalent collective bargaining and trade unions are associated with higher market inequality’; increasing the income share of the poor and middle class actually increases growth (Ostry et al. 2016). And it is multi-employer bargaining structures that are the most inclusive in terms of the level of coverage

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<sup>4</sup> For similar proposals in the UK, see Institute of Employment Rights, 2016.

(Visser et al, 2015).<sup>5</sup> The role of the state would be crucial here. Central to this would be the reinstatement and/or further promotion of multi-level collective bargaining using a variety of methods. Depending on the national systems of industrial relations, these would be include in principle establishing and supporting multi-employer, sector-wide bargaining mechanisms to negotiate terms and conditions of employment and encouraging the development of procedures to resolve disputes of a collective and even individual nature.

Support for collective bargaining would not imply the absence of support for improving statutory employment rights (see also Institute of Employment Rights, 2016). Such rights would continue to operate as minimum standards on which collective bargaining would build, across a wide range of areas. Drawing on the findings indicating the role of low pay in exposing workers to precarious conditions, it would be first necessary to consider both the scope and levels of national minimum wage regulation, involving in all cases the social partners. In light of the implications of variable hours of work for working conditions, changes would need to be considered in order to limit the extent of income insecurity associated with such practices (for recent examples, see the case of New Zealand). Thirdly, statutory intervention would be required to limit the extent of bogus self-employment and use of civil law contracts that are particularly prevalent in CEE countries but also in Greece. Central to this would be the introduction of a presumption of an employment relationship in all cases; the onus would be here on the employer to prove that the relationship is not actually one of employment. More broadly and still in relation to the issue of employment status, changes to the statutory framework of all EU Member States would be necessary to make labour standards universal, strengthen the employment relationship, define it more clearly and promote legal certainty. Finally, ensuring effectiveness in terms of the application of labour standards would also need to be promoted, involving, among others, easier access for the adjudication of employment disputes as well as more effective remedies.

Aside from considering these issues that relate to the role of the state, it would be of course crucial for the social partners, e.g. trade unions and employers' associations, to reflect upon their approaches internally, the way these parties interact with each other and the state and the impact these may have on the nature and extent of precarious work. Broadly speaking, this would entail a process of self-reflection and recognition of best practices and possibly also failed strategies, developing benchmarks for action on the basis of learning from other sectors and countries, promoting an exchange of views and dialogue with social partner representatives in other sectors and countries and at the European level in order to formulate joint views on how to address precarious work, raise awareness about precarious work and contribute effectively to the establishment, via collective bargaining and input to policy-making, and effective monitoring of labour standards.

When considering the approach of trade unions specifically, attention would need to be paid to the strategies vis-à-vis representing workers in precarious work, including crucially those on non-standard forms of employment. Further, in light of the role of multinational companies in exporting precarious work practices across their subsidiaries, trade unions would need to devise new strategies and use effectively existing ones, including here European Works Councils, to coordinate their approaches towards precarious work across borders. On the part of employers'

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<sup>5</sup> Bargaining coverage seldom exceeds 25 per cent of workers in countries characterized by company-level bargaining (Visser et al. 2015).

associations specifically, attention would need to be paid to the role of individual employers in creating and/or sustaining labour market fragmentation. Evidence from the EU Member States suggests that a range of considerations may act to inhibit the development of ‘uncontrolled’ labour market flexibility, including not only social legitimacy and institutional considerations but also economic, in the form of limiting the scope of unfair competition. Taking into account these issues would involve a re-calibration of the role that employers’ associations may play in labour market regulation away from precarious work and towards instead the re-mutualisation of the risks inherent in the employment relationship. Finally, in engaging in such processes of reflection and in considering and undertaking such forms of action, the social partners will be able to act jointly with the state to develop strategies and policies that move beyond precarious work, reducing ultimately insecurity and inequality in the European economy and society.

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