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 and Dublin City University

Country report: Romania

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Executive summary

PROJECT GOALS

The project investigates the role of industrial relations in addressing the growth of precarious work. The analysis focuses on the initiatives, responses, and best practices that trade unions and employers’ associations developed in addressing precarious work in the post-2008 period. The report uses a qualitative and comparative approach to study the dimensions of precarious employment, including low pay, irregular working hours, low job security and limited representation of workers’ rights. This two-dimensional approach to precarious employment allows mapping differences in the following sectors: construction, healthcare, metal/automotive, retail and temporary agency work (TAW).

DUAL LABOUR MARKET

Despite a substantial deregulation of the labour market through legal changes and a major reduction of collective bargaining coverage since 2010, the share of standard full-time employment contracts has remained relatively stable over the last 10 years; less than a third of the total labour force is employed on atypical contracts, with self-employment being the most common non-standard form of employment, followed by part-time and fixed-term contracts. Labour shortages linked to massive emigration inhibited employers to increase the use of non-standard employment contracts in the construction, retail and healthcare sectors. Nevertheless, there has been an upsurge in outsourcing and ‘leasing’ of personnel in some sectors (i.e. automobile and information technology - IT) as well as a rise in using TAW since 2008. Overall, labour market deregulation led to an increase in the share of informal work, employees on minimum wage and irregular working hours.

RESPONSES OF SOCIAL PARTNERS TO PRECARIOUS EMPLOYMENT

While social partners focused on legal initiatives to regulate precarious work at the national level, unions employed additional initiatives at sectoral and company levels. In the IT sector, a new type of union was formed to defend the interests of outsourced workers across multinational companies. A retail union also unionized workers in several large multinational corporations with international support. Furthermore, bipartite initiatives were used to reduce informal work in the construction and healthcare sectors.

POLICY IMPLICATIONS

The Romanian social partners seek to regulate precarious work primarily through shaping the legislation. It appears to be almost impossible for social partners to have a significant contribution to reducing precarious work, unless the government strengthens law enforcement and amends the 2011 labour laws to guarantee at least, the fundamental union rights in line with ILO Conventions. Nevertheless, the Romanian unions rediscovered that organizing workers and collective bargaining are the key instruments to improve precarious working conditions at company level. More unions could capitalize on international support to organise workers, as this proved critical in reducing the spread of precarious work into Romanian subsidiaries of certain multinationals. Employers also need to be aware that using their new prerogatives to reduce labour costs affects the quality of their labour force, which in turn, is likely to reduce the quality of products or services provided. Apart from being socially irresponsible, a ‘race to the bottom’ in labour standards can easily destroy company’s reputation.

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# Table of Contents

**Part 1: Labour market (de)regulation and precarious work** .......................................................... 1  
1.1 Introduction: overview of industrial relations and precarious work ............................................. 1  
1.2 Precarious work in context ........................................................................................................... 8  
1.3 Legal developments ....................................................................................................................... 9  
1.4 Forms and Incidence of Precarious Employment ............................................................................. 10  
  1.4.1 Labour Code forms of employment ........................................................................................ 11  
  1.4.2 Non-Labour Code forms of work ........................................................................................... 14  
  1.4.3 Concluding remarks ............................................................................................................... 15  

**Part 2: Discussion of findings on precarious work in selected sectors** ........................................... 16  
2.1 Overview of precarious work at the national level .......................................................................... 16  
  2.2.1 Construction ............................................................................................................................. 20  
    2.2.1.1 Economic developments and employment trends in construction .................................. 20  
    2.2.1.2 Forms of precarious work ................................................................................................ 21  
    2.2.1.3 Industrial relations in the construction sector ................................................................. 24  
    2.2.1.4 Trade union and employers’ approaches, actions, best practices .................................. 25  
    2.2.1.5 Concluding remarks ....................................................................................................... 27  
  2.2.2 Healthcare ............................................................................................................................... 28  
    2.2.2.1 Economic developments and employment trends in healthcare/hospitals .................. 28  
    2.2.2.2 Forms of precarious work ............................................................................................... 30  
    2.2.2.3 Industrial relations in the hospital sector ........................................................................ 32  
    2.2.2.4 Trade union and employers’ approaches, actions, best practices ................................. 34  
    2.2.2.5 Concluding remarks ....................................................................................................... 36  
  2.2.3 Metal ........................................................................................................................................ 37  
    2.2.3.1 Economic position and employment trends ..................................................................... 37  
    2.2.3.2 Forms of precarious work ............................................................................................... 39  
    2.2.3.3 Industrial relations in the metal sector ............................................................................ 41  
    2.2.3.4 Trade union and employers’ actions, best practices, examples .................................... 44  
    2.2.3.5 Concluding remarks ....................................................................................................... 48  
  2.2.4 Retail ....................................................................................................................................... 49  
    2.2.4.1 The sectors’ economic position and employment trends ............................................. 49  
    2.2.4.2 Forms of precarious work and the quality of working conditions ............................... 49  
    2.2.4.3 Industrial relations in the retail sector ............................................................................ 52
2.2.4.4 Trade union and employers’ actions, best practices, examples ........................................ 54
2.2.4.5 Concluding remarks ........................................................................................................ 58
2.2.5 Temporary agency work .................................................................................................... 59
  2.2.5.1 The sectors’ economic position and employment trends ............................................ 59
  2.2.5.2 Forms of precarious work .............................................................................................. 61
  2.2.5.3 Industrial relations in the TAW sector .......................................................................... 64
  2.2.5.4 Trade union and employers’ actions, best practices, examples .................................. 64
  2.2.5.5 Concluding remarks ..................................................................................................... 66
3. Comparative analysis and conclusions ................................................................................. 67
  3.1 Cross-sectors comparison .................................................................................................... 67
  3.2 Precariousness and industrial relations ............................................................................... 75
  3.3 Policy implications ............................................................................................................... 76
Bibliography .......................................................................................................................... 78
List of Figures

Figure 1: Main non-standard forms of employment ................................................................. 10
Figure 2: Part-time employment in Romania .............................................................................. 12

List of Tables

Table 1: Company/undertaking collective agreements (and additional acts) 2005-2014 ........... 3
Table 2: Overview of selected labour market indicators 2005-2014 ........................................ 5
Table 3: Number of interviews conducted in Romania in 2015 .............................................. 7
Table 4: Employment in construction (2008-2014) .................................................................. 21
Table 5: Monthly average gross wages in Romania in the construction sector (2008-2014) ...... 22
Table 6: Precarious work in the construction sector (dominant forms) .................................... 23
Table 7: Industrial relations in the construction sector ............................................................. 25
Table 8: Employment in the healthcare sector (2008-2014) ..................................................... 28
Table 9: Monthly average gross wages in Romania in the healthcare sector (2008-2014) ....... 29
Table 10: Evolution of work accidents in health care and social assistance sector, 2008-2014 ... 30
Table 11: Precarious work in the healthcare sector (dominant forms) ..................................... 31
Table 12: Industrial relations in the healthcare sector .............................................................. 33
Table 13: Employment in the metal sector (number of employees 2008-2014) ......................... 38
Table 14: Average monthly gross wage in the metal sector in RON (Euro) ............................... 38
Table 15: Precarious work in the metal sector, focus on the automotive subsector (dominant forms) .................................................................................................................. 40
Table 16: Industrial relations in the metal sector ...................................................................... 43
Table 17: Average employment in retail (excluding the sale of motor vehicles and motorcycles) .................................................................................................................................. 49
Table 18: Average nominal monthly gross wage in retail (excluding the sale of motor vehicles and motorcycles) ............................................................................................................................ 49
Table 19: Employment in retail, including the sale of motor vehicles and motorcycles (2008-2014)........................................................................................................................................... 50
Table 20: Dimensions of precariousness in the retail sector (dominant forms) ......................... 51
Table 21: Industrial relations in the retail sector ....................................................................... 53
Table 22: Economic and employment trends in TAW sector (2008-2014) ............................... 60
Table 23 Dimensions of precariousness in the temporary agency work sector (dominant forms) 62
Table 24: Summary of main sectoral developments in precarious work in Romania ............... 70
Part 1: Labour market (de)regulation and precarious work

1.1 Introduction: overview of industrial relations and precarious work

Similar to other Central and Eastern European countries (CEE), the transition from socialism to a market economy in the 1990s, the accession to the EU in 2007 and the 2008 crisis have contributed to an increase in labour market flexibility in Romania, which is often associated with a rise in precarious work. Nevertheless, there was a large degree of continuity in the regulation of the Romanian labour market until 2008, primarily due to initial circumstances of the transition. Romania had one of the most centralized planned economies and its transition to a market economy started only after the sudden collapse of the communist regime in 1989 (Trif, 2008b). Consequently, there was neither a credible alternative political elite to steer the country towards a democracy and market economy nor experienced domestic entrepreneurs and managers to restructure the state-owned enterprises to make them viable in a functioning market economy. The main method of privatization was management employee buy-out during the 1990s (Trif, 2008b). Direct sales were possible, but the privatization of state-owned companies was very slow due to a scarcity of domestic and foreign capital. As a result, there was a very gradual transition to a market economy by rather weak governments which sought trade unions’ support, in exchange for a legal framework relatively favourable to employees. According to Bohle and Greskovits (2012), these developments led to a special type of neo-liberal society with weak state institutions, high centralization and coverage of collective bargaining and relatively high mobilization power of trade unions.

The Romanian legal system has a strong French influence (being broadly based on the Napoleonic Code), which resulted in relatively protectionist labour legislation before 2008 (Trif, 2008a). Post-1989 legislation entitled the social partners to bargain collectively and gave unions the right to strike (Hayter et al. 2013). Collective agreements could be concluded at national, industry (or other sub-divisions) and company levels. Comparable only to Slovenia amongst the new EU Member States, there was an automatic extension of collective agreements to cover all employees in the bargaining unit. All employees were covered by a cross-sectoral national agreement before the 2008 crisis. Additionally, employees were covered at industry level by collective agreements in 20 out of the 32 branches eligible for collective bargaining and by 11729 company level collective agreements in 2008 (Trif, 2015). The presence of the favourability principle enshrined into law meant that lower level collective agreements could only improve the provisions for employees set at higher levels (Trif, 2016a). Nevertheless, it was difficult to enforce the provisions of collective agreements (and the statutory labour legislation), particularly for the lowest paid employees who had the most precarious conditions (Trif, 2008a).

The EU accession process contributed to increased labour market flexibility by making it easier to use fixed-term contracts. In order to harmonise Labour Code provisions with the EU social acquis, the restrictions on concluding individual fixed-term employment contracts were relaxed in countries that had relatively protectionist labour legislation, such as Romania and Slovenia (Carley et al. 2007). Yet, when the Council of Foreign Investors tried to remove the legal obligation on employers to bargain with trade unions or employee representatives during the

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1 I would like to thank Victoria Stoiciu for her support in arranging the interviews and providing relevant secondary data and sources for this project. Also, I’m very grateful to the respondents for providing invaluable insights into precarious work.
2005 Labour Code revision, Romanian trade union officials managed to preserve the collective bargaining mechanism with the support of the European Trade Union Congress and the International Labour Organization (Trif, 2008a).

Nevertheless, unions’ success was short-lived, as foreign investors (who bought a large number of large state-owned companies in the 2000s after the privatization process was simplified and it became certain that Romania would join the EU) triggered the dismantling of the collective bargaining system during the recent crisis (Trif, 2013). Apart from lobbying a sympathetic center-right government, the foreign investors’ quest for a flexible labour market was endorsed by the Troika of the European Commission, International Monetary Fund and European Central Bank (Schulten and Muller, 2013), from which Romania borrowed approximately 20 billion euro in 2010 to deal with the budget deficit. Although labour market regulation was not considered a cause of the crisis in Romania (Ban, 2016; Stoiciu, 2012), the demand for the flexibilization of the labour market was part of the conditions for getting financial assistance from the Troika (Schulten and Muller, 2013). This international agreement gave legitimacy to the center-right government to downgrade individual and collective employment rights (Trif, 2013).

The individual employee rights were reduced by the new provisions of the Labour Code adopted in 2011 (Stoiciu, 2012). First, the new provisions make it easier for employers to hire and fire employees (including lowering dismissal protection for union representatives) and to utilize flexible forms of employment contracts (Clauwaert and Schömann, 2013). Second, they increase employers’ prerogatives to modify unilaterally the working time, including the right to reduce the working week (and the corresponding wages) from five to four days. Finally, the new provisions allow employers to set unilaterally the employees’ workload, while previously employers had to consult unions (Trif, 2014).

Additionally, the collective rights were slashed by the Social Dialogue Act (SDA) adopted in 2011, which diminished fundamental collective rights of employees to organise, strike and bargain collectively (Trif, 2014). First, the SDA forbids collective bargaining across sectors, which considerably diminished the role and influence of the unions and employers’ confederations. Second, the provisions of the SDA made it very difficult to negotiate sectoral collective agreements and their numbers dropped by 60 percent (Trif, 2016a). Furthermore, the lack of higher level collective agreements and the increase in representativeness criteria from 33 percent to 51 percent for company-level union to be eligible to negotiate collective agreements made it far more difficult to negotiate company level collective agreements. As a result, there was a massive decline in the number of collective agreements negotiated by representative unions (see Table 1), while non-representative unions and elected representatives of employees have negotiated more than 85 percent of collective agreements since 2011. This ‘frontal assault’ on multi-employer collective bargaining (Marginson, 2015) led to a transformation of the regulatory framework from a statutory system that supported collective bargaining at the national, sectoral and company levels to a so-called ‘voluntary’ system, which has increased the precariousness of employment conditions even in sectors and companies where unions have a stronghold (Trif, 2016b). Nevertheless, there is virtually no empirical evidence about the effects of the downgrading of individual and collective rights on the employment conditions for non-standard workers, while information about the provisions of the collective agreements, particularly those negotiated by employee representatives is very scarce if any.
Table 1: Company/undertaking collective agreements (and additional acts) 2005-2014

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* They refer to elected or nominated non-unionized or unionized employees in companies where there is no representative union (meaning that less than 50 percent of the labour force is unionized); also, these representatives may involve representative sectoral union federations in the negotiation of the company-level collective agreements.

Source: Guga and Constantin (2015: 131)
In this context, this report examines developments regarding precarious work in Romania since 2008, focusing on the approach of trade unions and employers to address it in five sectors severely affected by the recession, albeit in different ways, namely construction, healthcare, metal, retail and temporary agency work (TAW). Similar to other countries, the construction sector was the first and the hardest hit by the recession (Trif, 2013); the employment conditions for healthcare workers were downgraded due to public spending cuts required by the Troika’s international financial agreement (Hayter et al, 2013); the metal sector which has been dominated by multinational companies and is export oriented, was severely affected by the international crisis and the decline in exports (Trif, 2016a); the retail sector was affected by a reduction in domestic consumption also associated with a reduction in the amount of money sent by Romanians working abroad (Trif, 2013); and, last but not least, it could only speculate about developments in the TAW sector, as there was very limited information about it; on the one hand, it could be expected that the number of agency workers would increase, as the new labour laws make it easier to employ workers on fixed-term contracts; one the other hand, it could be expected that agency workers would be the first laid off, in the context of an overall reduction in the labour force (see Table 2). By and large, there is very limited empirical evidence concerning developments in precarious work in the selected sectors.

Surprisingly, the Eurostat data indicates no increase in the use of non-standard contracts in Romania since the crisis (see Table 2), although the 2008 crisis led to a radical deregulation of the labour market by downgrading individual and collective employment rights (Trif, 2016a). Circa 70 percent of the labour force has been employed on full-time contracts (out of which 13-14 percent were self-employed and 7-8 percent were family workers) and nine percent were on part-time contracts (most out of which were self-employed and family workers); amongst the total number of full-time and part-time employees, solely approximately one percent are on fixed term contracts (see Table 2). Furthermore, the unemployment rate remained relatively stable between 2008 and 2014 at around seven percent, despite a decline in the total labour force by eight percent (see Table 2). Overall, the Eurostat data shows very limited variation concerning the type of employment contracts used over the last 10 years (Table 2), suggesting that the crisis did not lead to a rise in labour market dualization in Romania.

There are two potential explanations for these labour market trends. On the one hand, the limited use of non-standard contracts (and relatively low unemployment) might be explained by a shortage of labour supply due to the continuous emigration, which has increased particularly in 2008 after Romania joined the EU (Stan and Erne, 2014; see Table 2). Hence, employers may be unwilling to use the new prerogatives to alter the terms and conditions of employment to enable them to attract and retain employees.
Table 2: Overview of selected labour market indicators 2005-2014

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<td>7.7</td>
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<td>13.1</td>
<td>14.8</td>
<td>14.7</td>
<td>0.6</td>
</tr>
<tr>
<td>In work - % PT total</td>
<td>NA</td>
<td>NA</td>
<td>56.1</td>
<td>57.4</td>
<td>56.5</td>
<td>50.7</td>
<td>58.0</td>
<td>61.1</td>
<td>57.3</td>
<td>62.0</td>
<td>57.4</td>
<td>4.6</td>
</tr>
</tbody>
</table>

* Data from Stoiciu (2016: 11)/Source: Eurostat (2016) Compiled by author
In Romania, precarious work generally means the opposite of decent working terms and conditions, rather the opposite of standard employment conditions. Precarious work refers to uncertain and unpredictable terms and conditions of employment (Kalleberg, 2009: 2), which is often experienced by workers with non-standard employment contracts, such as fixed-term and part-time employment, temporary agency work and self-employment (Kahancová and Martišková, 2011). In Romania, working conditions are considered precarious if the income of employees is below the amount needed to purchase the minimum consumer basket of goods and services, which represents the minimum level of living standards accepted by society. Many employees on standard employment contracts have an income below the the amount needed to purchase the minimum consumer basket of goods and services and are at risk of poverty (Stoiciu, 2016; Table 2), in addition to the investigation of non-standard forms of employment, in this study we also consider uncertain and unpredictable employment conditions in the case of standard employment contracts. More specifically, we focus on the following dimensions of precarious work: income security, job security, social security, working time uncertainty and limited or no employee voice.

This study is based on a total of 21 interviews with key informants conducted in 2015 (see Table 3). Seven interviews were conducted at the national level with two trade union senior officials, two employers’ representatives, and three government officials. They were asked about national level developments in precarious work and the approach of their organization towards non-standard employment contracts. In addition, unions’ officials and employers or representatives of employers’ associations were interviewed in each of the five selected sectors to gather information on precarious work and actions to address it, with the exception of employers’ representatives in the metal sector. While there are no unions in the TAW sector, a union official representing telecommunication workers and two (out of the three) metal unions’ officials provided information about developments in the TAW sector, as they have members from that sector. The duration of each interview was between one and two hours and most interviews (19) were tape recorded.

This report has three further sections. Section 1 examines legal developments and the incidence of types of employment contracts covered by the Labour Code and other types of regulations. Section 2 presents the national level developments and analyses unions and employers actions to deal with precarious work in the five selected sectors, based on empirical evidence. Section 3 discusses the cross-sectoral evidence and concludes the study.
Table 3: Number of interviews conducted in Romania in 2015

<table>
<thead>
<tr>
<th>Level</th>
<th>Trade unions</th>
<th>Employers’ representatives and HR Managers</th>
<th>Government officials and experts</th>
<th>Total number</th>
</tr>
</thead>
<tbody>
<tr>
<td>National</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Construction</td>
<td>2</td>
<td>1</td>
<td>NA</td>
<td>3</td>
</tr>
<tr>
<td>Health</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Metal (automobile, metal and IT)</td>
<td>3</td>
<td>NA</td>
<td>NA</td>
<td>3</td>
</tr>
<tr>
<td>Retail</td>
<td>1</td>
<td>2</td>
<td>NA</td>
<td>3</td>
</tr>
<tr>
<td>TAW</td>
<td>1</td>
<td>1</td>
<td>NA</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
<td>7</td>
<td>4</td>
<td>21</td>
</tr>
</tbody>
</table>
1.2 Precarious work in context

Romania has the lowest wages\(^2\) in the EU28, with the exception of Bulgaria (Eurostat, 2016), which has critical effects for its labour market. First, it affects whether or not people take up employment. The employment rate in Romania was 65.7 percent in 2014, which is lower than the EU28 average of 69.2 percent. Second, low wages and opportunities to work abroad led to massive emigration (Trif, 2016a). There has been a negative rate of net migration since the 1990s; it increased from -4.1 (per 1000 inhabitants) in 2006 to -21.9 in 2007, when Romania entered the EU (Table 2). Between 2008 and 2014, the overall population has declined by 7.5 percent (over 1.5 million), while the total number of people in employment has declined by 8.1 percent (Eurostat, 2016). Nevertheless, the high level of emigration led to a rather low unemployment rate. Unlike in other countries severely affected by the recession, the unemployment rate varied just slightly between 5.6 percent in 2008 to a maximum of 7.2 percent in 2011, while in 2014 it was 6.8 percent (Table 2). Thus, labour market reforms were needed to address issues of emigration and low labour force participation associated to low wages.

However, the centre-right government took the opportunity to deregulate the labour market during the recent crisis, with the support of the Troika (Trif, 2016a). The Romanian gross domestic product (GDP) declined by 6.6 percent in 2009, followed by a further reduction of 1.6 percent in 2010, indicating a more severe economic downturn than the EU average (Trif, 2013). In order to deal with it, the government borrowed 20 billion euro from the Troika in 2010. Additionally, it signed a Precautionary Agreement with the IMF in 2011 (Trif, 2016a). The conditions set by the two international agreements for financial assistance included provisions regarding the deregulation of the labour market. When the centre-left government tried to amend the SDA in 2012, in their joint comments, European Commission and IMF stated

> ...we strongly urge the authorities to limit any amendments to Law 62/2011 to revisions necessary to bring the law into compliance with core ILO conventions (European Commission and IMF, 2012:1)

Thus, the EU and the IMF played an important role in the flexibilization of the labour market in Romania during the recent crisis.

In addition, foreign investors lobbied the government to introduce more flexibility into the Romanian Labour Code. While they had limited success in their first attempt to downgrade employment rights during the EU accession process, they managed to persuade the centre-right government to introduce virtually all the amendments that they wished for in 2011. According to a union official, the labour market reforms were adopted at the recommendation of two players; one is the American Chamber of Commerce and the other one is the Foreign Investors Council (Trif, 2014). The representatives of both, Romanian employers and trade unions, indicated that foreign investors played a key role in amending the Labour Code and the Social Dialogue Act in 2011, whilst the recommendations of the formal national tripartite bodies were ignored by the government (Trif, 2016b). Thus, a combination of lobbying by foreign investors, international pressure from the Troika and the ideology of the centre-right coalition led to deregulation of the labour market in 2011, as will be discussed next.

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2 Wages per employee in full-time equivalents, per year, were 5,911 Euro in 2012, being more than five times lower than the average in the EU28 (Eurostat, 2016)
1.3 Legal developments

In Romania, the individual employment rights are primarily regulated by the Labour Code. The Labour Code adopted in 1973 was in force until 2003, albeit with certain amendments, such as the abrogation of the political duties of workers, the reduction of working time from 48 hours per week to 40 hours (Law No. 95/1990) and the removal of the obligation of employers to ensure job security (Decision No. 86/1996) (Trif, 2004). The new Labour Code (Law 53/2003) incorporated all relevant amendments to the previous Code and introduced additional changes, aiming primarily to harmonize the Romanian labour laws with the EU social acquis, which was pre-condition for the EU accession (Trif, 2008a). Whilst the provisions of the old Code referred mostly to standard, open-ended full-time individual labour contracts, the 2003 Labour Code introduced specific regulations for non-standard forms of employment contracts, such as part-time and fixed-term contracts and temporary agency work.

In 2011, the centre-right government introduced radical changes to the provisions of the Labour Code of 2003 (Law 40/2011) aiming at increasing employment flexibility. First, the new provisions make it easier to hire-and-fire employees by (a) extending the probation period from 30 to 90 days for workers and from 90 to 120 days for managers; (b) allowing employers to multiply the probation periods by having up to three candidates for the same job for up to 12 months. The employer can terminate anytime the probation period without notice, which affects their job security. Furthermore, (c) the dismissal protection was diminished, particularly for local union representatives. The ban on firing them within two years of the end of their mandate was lifted, which makes is harder for them to fight against precarious work.

Second, employers got more control over the working time; employers can unilaterally reduce the working week and the corresponding wages (Trif, 2016b). Furthermore, it made it possible for employers to grant free days in advance and demand employees to work overtime. Finally, the new provisions make it easier for employers to use non-standard employment contracts, by extending the maximum length of fixed-term employment contracts from 24 to 36 months and by making it easier for employers to utilize temporary agency workers. Thus, the main changes to the Labour Code in 2011 made it easier for employers to hire and fire employees and to utilise flexible forms of employment contracts. Furthermore, the Social Dialogue Act, which replaced all previous collective labour laws in 2011, reduced the fundamental collective employment rights, namely the freedom of association in trade unions, collective bargaining rights and the right to strike (Trif, 2014).

Summing up, the downgrading of the individual and collective employment rights in 2011 has increased employees’ job insecurity and employers’ prerogatives to decide unilaterally regarding working time, whilst decreasing employees’ voice and unions’ capacity to further employees’ interests. Thus, the recent legal changes provide an opportunity for employers to increase the precariousness of work by reducing income, job and social security as well as increasing working time uncertainty while limiting employee voice.
1.4 Forms and Incidence of Precarious Employment

This section reviews the most important forms of non-standard employment and provides evidence on their incidence in Romania. As indicated in Figure 1, self-employment is the most common non-standard form of employment, followed by part-time employment and fixed-term contracts. This section discusses first the forms and incidence of part-time, fixed-term and TAW employment regulated by the Labour Code, while the second part examines the non-Labour Code forms of work, namely self-employed and informal work. Although this study focuses on legal forms of employment, the Romanian case makes reference to informal work, as it may explain the precarious conditions in some of the five selected sectors. The report of the Fiscal Council (2014:128) indicates that construction, metal retail and commerce are amongst the sectors with the highest share of undeclared work (it is estimated that 66 percent of the workforce is undeclared in the construction sector). Thus, informal work might be one of the main types of precarious work in specific sectors.

Figure 1: Main non-standard forms of employment

![The main non-standard forms of employment in Romania (2008 - 2014)](image)

Source: Eurostat (2016)
1.4.1 Labour Code forms of employment

*Part-time employment*

The Labour Code indicates that part-time work may consist of any specified fraction of a full-time contract and it may be open-ended or on a temporary basis (Art. 34). The terms and conditions of employment should be the same as those in equivalent full-time positions, but pro-rata depending on working hours. Also, part-time workers cannot be excluded from statutory social security schemes. The employment contract for part-time workers must specify the number of working hours, working schedule and the conditions under which the schedule may be amended (Art. 35). Different from the provisions for full-time employees, *overtime work is forbidden* for part-time work contracts, except in force majeure cases or in urgent interventions necessary to avoid accidents. This provision was adopted to prevent employers using part-time work contracts for positions where full-time work is actually performed (European Commission, 2013). Nevertheless, more than half of part-time employees are at risk of poverty and social exclusion in Romania, which is approximately three times more likely than full-time employees (Table 2). While this could be accurate, another potential explanation is the fact that many part-time employees may still be working full-time but declaring only the income for part-time work to avoid paying taxes, which also could explain the fact, unlike in most countries, there are no significant gender differences in those taking up part-time employment (Figure 2).

According to the Eurostat (2016) data, part-time employment as a percentage of the total employment varied slightly between 8.5 percent and 9.9 percent since 2008 (see Figure 2). There was a small increase in the number of part-time employees in 2010 (1.4 percent) followed by a small decline until 2014, which resulted in virtually the same percentage of part-time employees in 2008 (8.6 percent) and 2014 (8.7 percent). It is interesting to note that the percentage of men working part-time in Romania is similar to the average in the EU28, whilst Romanian women are three times less likely to work part-time in Romania than the average in the EU 28. Although the average percentage of female working part-time is slightly higher than for male (1.7 percent on average between 2008 and 2014) in Romania (according to the Eurostat data), there are no major gender differences regarding part-time working in Romania (see Figure 2). Furthermore, the Romanian national expert for the European Commission report (2013: 291), reported that out of the 393,908 employees working part-time in 2013, 49 percent were female and 51 percent male, based on data provided by the Romanian Ministry of Labour, Family, Social Protection and the Elderly, Department for Equal Opportunities for Women and Men. The European Commission study (2013: 291) indicates that part-time work is the most common in the retail sector (over 40 percent), followed by education (19 percent), transport, restaurants and catering, healthcare and construction. Despite potentially incoherent data regarding the number of part-time employees, it appears that there have been in the region of 400,000 employees working part-time since 2008. Unlike in most EU countries, there are no significant gender differences regarding taking up part-time employment (Eurostat, 2016; European Commission, 2013).

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3 If the European Commission (2013) study provides the correct number of part-time workers in Romania, the percentages provided by the Eurostat for part-time workers are more likely to be out of the total number of full-time employees; nevertheless, the data reported by the European Commission study (2013:291) is also incoherent, as the total number of part-time employees in 2013 in the most common sectors is higher than the total number provided.
Fixed-term employment

The 1972 Labour Code permitted fixed-term contracts under two circumstances; (a) to replace an employee when his/her contract was suspended and (b) for seasonal or temporary activities. It did not specify the maximum duration of fixed-term contracts or the maximum number of renewals. The Labour Code of 2003 increased the number of circumstances in which a fixed-term contract is allowed, including (i) any temporary increase and/or change of the employer's activity structure and, (ii) specific categories of unemployed and retired people or people close to retirement. The total duration of fixed-term contracts was initially limited to 18 months (Art. 82) and only three successive fixed-term contracts could be concluded (Art. 80). During the EU accession process in 2005, the maximum length of fixed-term contracts was increased to 24 months, in order to harmonize the Romanian laws with the EU social acquis.

The changes to the Labour Code in 2011 further increased the maximum duration of fixed-term contracts. While previously, three successive fixed-term contracts could be concluded, not exceeding a total duration of 24 months, the new provisions do not explicitly specify the maximum length of consecutive fixed-term contracts. The law states that only three successive fixed-term contracts can be concluded between two parties, with the first for a maximum of 36 months (Art. 82⁴) and the following ones for a maximum of 12 months each. Thus, the total duration of three consecutive fixed-term contracts has been increased from 24 to 60 months. The terms and conditions of employment for fixed-term employees should be the same as for

⁴ This article states that ‘The individual labour contract for a definite period may not be concluded for a period exceeding 36 months.’
equivalent full-time employees unless otherwise specified in the laws (i.e. the probation period can be shorter) or due to ‘objective reasons’, which are not specified in the law.

It appears that the restrictive legislation led to a low number of fixed term contracts in Romania (see Figure 1). The Eurostat (2016) data indicates that Romania has the lowest percentage of fixed-term employees in the EU28, being more than nine times lower than the EU average for the last 10 years. The percentage of temporary employees (out of the total number of employees) varied slightly between 1 percent in 2009 to 1.5 percent in 2014, but this data suggests that the legal changes of 2011 did not affect the share of fixed-term contracts, as the average percentage between 2005-2010 was 1.5 percent.

Nevertheless, other sources indicate that the 2011 legal changes have led to a significant increase in the share of fixed-term employees. According to the Romanian Government (2011a), in the first nine months after the new provisions of the Labour Code were introduced in 2011, a third of the new employment contracts were fixed-term. Also, the Romanian Government (2014a: 22) in the letter of intent to IMF indicated that share of fixed-term contracts increased from 8.2 percent of total contracts in 2012 to 8.4 percent in 2013. Additionally, case study evidence indicates that certain companies have used the new legal provisions to change the standard employment contracts. For instance, a large metal company started to employ all new low-skilled employees on fixed-term contracts since 2011, which resulted in half of the labour force being on fixed-term contracts in 2014 (Trif, 2016b). This case study shows that even in highly unionized companies, employers or senior managers can unilaterally change the type of contract, which leads to job insecurity and lower wages for the new employees. Thus, the Labour Code changes of 2011 have led to an increase in the share of fixed-term contracts, at least in some companies.

**Temporary agency work**

The worked performed by temporary agency workers is regulated by the Labour Code. There are virtually no restrictions concerning the reasons for using agency workers, except they cannot be used for replacing existing employees or workers on strike. The maximum initial duration of the temporary work mission is 24 months, with the possibility to extend it up to 36 months (Art. 90). While before 2010, agency workers had to be paid the same wages as permanent employees performing similar jobs in the user enterprise; the legal provisions introduced in 2011 indicated that agency workers must be paid at least to the legal minimum wage. However, an amendment introduced in 2015 (Law 12/2015) obliges temporary agencies to pay agency workers the same wages and working conditions as those of permanent employees in the user enterprise performing the same or a similar job (Art, 87). There are no specific references to the social security entitlements of agency workers. Temporary agencies are not allowed to request any payments from the agency workers. The main precarious dimension of agency work is high job insecurity. Although the number of agencies has doubled and the number of employees working with temporary agencies has quadrupled since 2008, they represent less than 0.1 percent of the total employment (Eurostat, 2016).

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5 It is possible that government has included several fixed-term contracts in a year, including those for employees who have already another type of contract, but anecdotal evidence based on case study research and discussions with representatives of unions and employers’ organization, would suggest that there has been a significant increase in the use of non-standard contracts since 2011.
1.4.2 Non-Labour Code forms of work

**Self-employed**

Self-employed persons are defined as persons who are the sole or joint owners of the unincorporated enterprises in which they work. Apart from employers, self-employed persons generally include unpaid family workers and self-employed persons with no employees. As self-employed persons consist of people in employment without a contract of employment, the Romanian Labour Code does not regulate their terms and conditions of employment. Hence, there are no statutory regulations regarding working time, holiday, maternity leave or sick pay (Chivu, 2009). Nevertheless, self-employed workers may contribute on a voluntary basis to the social protection system, in order to get a pension, health care services and other benefits (Chivu, 2009).

According to the Eurostat (2016) data (which excludes family workers), the percentage of self-employed persons out of the total number of persons in employment has increased slightly from 18.2 percent in 2008 to 20.3 percent in 2010, while it decreased to 18.4 percent by 2014. In addition, there were circa 11 percent family workers on average since 2008 (Table 2). The majority of self-employed (and family workers) work full-time (Table 2). There have been no significant changes since 2008 either in the total percentage of self-employed and family workers nor in the ratio between full-time and part-time employment. Ciutacu (2010) also reported that around a third of total employment were self-employed in 2007 (3,156,089 persons), out of which 80 percent were working in subsistence agriculture. Thus, self-employed and family workers represent circa a third of the total labour force.

**Informal employment**

There is no specific data about bogus self-employment, while there is information about informal employment. The informal employment refers to all forms of work activities hidden from public authorities in order to avoid paying taxes, social contributions or to avoid compliance with labour laws (Fiscal Council, 2013). The estimated size of informal employment varies between 20 to 50 percent of the total employment, being larger than in other countries in the region (Parlevliet and Xenogiani, 2008). The Romanian Fiscal Council (2014: 17) indicated that about 1.57 million people were involved in informal employment in 2012, representing 28 percent of total employees.

In Romania, the informal work takes various forms, from subsistence agriculture and bogus self-employment, to workers without labour contracts or underreporting of earnings. These forms can be divided into two main categories. The first group consists of paid or unpaid workers doing domestic work (cleaning, cooking, small repairs and care of children or elderly or sick), and working in subsistence agriculture, mostly for their own consumption. According to Pisica (2011:11), this category of workers represents more than two-thirds of informal employment (around two million), including unpaid-workers, which are also reported under the self-employment.

The second category consists of people aiming to maximize their income (to avoid paying taxes), either by working without an employment contract or by underreporting their earnings (i.e. the employer declare the payment of minimum wage, while there is an additional cash payment, so-
called envelope payments). Romania is ranked first amongst EU countries in terms of the incidence of envelope payments (23 percent) (Eurobarometer, 2014). Although envelope payments were used before 2011, the lack of national collective agreements which used to specify the minimum wage rates in relation to minimum wage for different categories of employees depending on their qualifications, led to an increase of its use according to the social partners (Trif, 2014). Pisica (2011: 10) estimates that the percentage of people in informal employment (out of total employment) has increased from 24 percent in 2008 to 30 percent in 2010. The precariousness of work for people taking up informal unemployment varies, from health and safety issues for agriculture and construction workers without an employment contract and no social benefits to a reduction in the pensions and social benefits for those who report lower wages than their actual earnings.

1.4.3 Concluding remarks

There are three main sets of factors that led to gradual changes in the labour laws in Romania since 1989, which in turn, may lead to the expansion of precarious work. First, the collapse of the Communist regime led to amendments of the 1972 Labour Code, but it had minor effects on the flexibilization of the labour market until 2003. Second, the requirement to harmonize the Romanian labour laws with the EU social acquis during the EU accession process led to the introduction of specific legal provisions for non-standard employment forms in the 2003 Labour Code, but foreign employers still considered those provisions rather restrictive (Trif, 2008a). Last but not least, foreign investors triggered the 2011 major legal changes which provide more flexibility for employers to use non-standard forms of employment contract (Trif, 2014). Moreover, the new legal framework gives the opportunity for employers and senior managers to worsen the terms and conditions of employment for employees on a standard, open-ended full-time contract. Foreign investors were able to persuade the centre-right government to introduce those legal changes to increase employers’ prerogatives, also due to the EU and Troika support for deregulation of labour markets. Despite low unemployment, the Romanian government justified the legal changes by indicating that they aim to create jobs by increasing labour market flexibility (Chivu et al., 2013).

Surprisingly, despite a substantial deregulation of the labour market, both via legal changes and the major reduction of collective bargaining coverage, the quantitative data does not suggest labour market dualization or a rise of precarious work since 2008. Nevertheless, more than a third of the total labour force has continued to be employed on non-standard contracts, most of them being self-employed. On the one hand, the lack of an increase in non-standard employment could be due to labour shortages associated with high emigration. On the other hand, it is plausible that the available quantitative data does not permit to evaluate the potential increase in precariousness dimensions of work. Thus, further empirical research is needed to get an understanding on whether the labour market deregulation has contributed to an increase in the precariousness of work, as found by previous empirical studies (Guga and Constantin, 2015; Hayter et al. 2013; Trif, 2013; Trif, 2016a).
Part 2: Discussion of findings on precarious work in selected sectors

This section analyses the empirical data collected in 2015 via in-depth interviews with a total of 21 respondents (see Table 3). Following an overview of precarious work forms at the national level, it focuses on developments in the five selected sectors (construction, healthcare, metal, retail and TAW) between 2008 and 2014. It examines the actions, initiatives and attitudes of trade unions and employers’ organizations to address the challenges raised by precarious work in each sector; and the implications of such actions on the quality of work as well as on social dialogue and industrial relations institutions. Each sectoral case study seeks to answer the following research questions:

- What are the trends in precarious work since 2008?
- Which forms of precarious work dominate in the sector and what factors contributed to their development?
- What initiatives have sector-level social partners (employers and trade unions) taken in response to the trend of labour market flexibilization and the rise of precarious employment?
- How to understand social partner approaches, strategies and actions in the light of the project’s analytical framework?
- How effective are their actions? What are the implications for the extent and type of precarious employment and for the future of industrial relations institutions in these sectors?

2.1 Overview of precarious work at the national level

Although the share of non-standard employment contracts has not risen in Romania since 2008, the empirical findings indicate that labour market deregulation has led to an increase in precarious working conditions. Firstly, (legal or illegal) self-employed workers doing low-skilled jobs in agriculture, construction, tourism and retail sectors continued to be the most precarious work group due to low and uncertain income, long and irregular working hours, limited (if any) social benefits and no voice (they cannot be unionized). This group of workers are the most likely to be part of the black or grey market; they are often remunerated entirely or partially by ‘cash in hand’, which limits their social benefits, including access to unemployment benefits and pensions. Nevertheless, respondents mentioned that sometimes, people receiving unemployment benefits work illegally (without any type of work contract) abusing the social benefits system. The findings suggest that the limited number of labour inspectors, the lack of national collective agreements and sometimes corruption, contributed to an increase in people working in the informal market since 2008.

Secondly, the terms and conditions of many employees on standard full-time open-ended contracts have become more precarious since 2008. According to unions, the most precarious dimension for employees on standard contracts is low wages in a context of increasing workload and irregular working time, as the new legal provisions increased employers’ prerogatives to establish them unilaterally. A government official indicated that circa 25 percent of full-time
employees were on minimum wage in 2015. In the public sector, apart from reducing employees’ income by cutting wages, the 2009 public wage law introduced by the Government (as part of their negotiations with the Troika), changed the salary grids by tying all public sector employees to a wage scale defined in terms of multiples of a base salary of 600 RON (€135). As this reference to the base salary remained unchanged (until the time when this report was written in 2016), while minimum wage was increased to 1050 RON in 2015 (and 1250 RON in 2016), employees on 28 different wage scales (with a wage index varying between 1 to 1.75) were on minimum wage in 2015. Furthermore, the limits imposed on public sector recruitment led to increases in workload and unpaid overtime, according to the respondents.

In the private sector, in addition to increased employers’ prerogatives to use irregular and flexible working time, the abolition of cross-sectoral collective agreements in 2011 brought to an end the wage indexation based on qualifications and seniority. The lack of a compulsory wage index permits employers to provide the minimum wage to any employees. Unsurprisingly, there has been an increase in the number of employees on standard employment contracts getting the minimum wage (Trif, 2016a). In domestic companies, some employers provide workers on minimum wage with additional ‘cash in hand’ to reduce the payroll taxes for both the employer and the employee. Multinational corporations use a different tactic to reduce wages, namely outsourcing their employees to other companies which pay them lower wages. The outsourced workers continue to have standard contracts and do the same tasks within the same workplace, while formally they have a different employer which pays them less. According to a union respondent, there were wage cuts of circa 30 percent for outsourced employees in the IT sector (i.e. they do not get bonuses, lumps sums for Christmas and Easter and no meal vouchers). The outsourcing of employees has increased since 2008, but these changes are not captured by the quantitative data, as they remain on standard contracts. In order to deal with the low wages, the government has virtually doubled the national minimum wage between 2008 and 2016, but it is still well below the amount needed to purchase the minimum consumer basket of goods and services. Overall, it appears that the high degree of flexibility afforded by employers to determine the terms and conditions of employment for employees on full-time open-ended contracts is one of the main reasons for limited up-taking of non-standard forms of employment contracts, in addition to a shortage of labour in certain sectors.

National level initiatives to deal with precarious work

At the national level, there have been mostly legal initiatives seeking to fight against precarious work. First, the five largest trade union confederations signed a protocol in 2011 with the centre-left opposition. This promised to reverse the employment regulations introduced by the centre-right coalition in exchange for unions’ support for the 2012 elections. The centre-left coalition came to power in 2012 but this government made virtually no legal changes to the SDA. The ILO representatives held discussions with the centre-left government as well as representatives of the Troika about the need to amend the current labour laws to comply with the ILO conventions (Hayter et al., 2013). However, the EU and IMF opposed most changes proposed by the social partners. Whilst the Troika endorsed legal changes adopted unilaterally by the centre-right government (without parliamentary debate or consultation with unions and employers’ representatives) which reduced the protection of employees in 2011 (Trif, 2013), in their joint comments, the EU and the IMF objected to the use of a slightly more democratic process to modify the SDA (Law 62/2011) to comply with the ILO conventions:
“We understand that the present draft was prepared by trade union confederations that are representative at the national level and by only four employer confederations. Given the importance of Law 62/2011 for labour relations in Romania, which embodies a key reform, we think it is inappropriate to amend this law through an emergency ordinance and consider it of the utmost importance to go through the normal legislative process which ensures a thorough preparation and proper consultation of all social partners, including all employer organizations representative at the national level.” (European Commission and IMF, 2012:1)

The European Commission and the IMF opposed proposed changes concerning the extension of national and sectoral collective agreements. Specifically, they were against changes that would make it easier for employees to take industrial action and also asked for a further reduction in unions’ influence, by limiting the legal protection of local employee representatives involved in collective bargaining. However, they agreed with the proposed changes to the local union representativeness criteria from over 50 percent to 35 percent and a reduction of the number of members required to form a union from 15 to 5. There have been additional proposals and bills to amend the SDA since 2012, covering provisions in relation to the representativeness criteria for social partners, but they have not been adopted, yet. A senior union official argued the Boc’s centre-left government is unwilling to change the labour laws, as the government has a secret deal with representatives of multinational corporations to preserve the existing legal framework. The government respondents argue that if trade unions and all employers’ associations agree on specific legal changes, the government would be willing to adopt the amendments. Although four large employers’ associations would like to re-instate national and sectoral collective agreements, some employers’ organizations, particularly the American Chamber of Commerce, make it virtually impossible to get an agreement on any amendments to the SDA and Labour Code to reduce employers’ prerogatives.

Second, as the traditional political and collective bargaining instruments have failed to defend employees’ interests, BNS (one of the five union confederations) utilized a new political instrument, namely a civil society initiative, to amend the new provisions of the Labour Code. BNS availed of a provision of the Romanian constitution, which allows citizens to initiate a bill if at least 100,000 citizens with voting rights support it. Despite having more than 200,000 union members and inviting the other four confederations to support this initiative, BNS was unable to gather 100,000 signatures to support it in 2012, in a context of vertical and horizontal fragmentation of the union movement. Nevertheless, BNS has secured the required support in their second attempt to introduce this bill in 2014. The 2014 campaign was the first initiative by a Romanian union confederation to invite individual citizens, rank-and-file members as well as lower level union officials to have a direct input into a draft bill. Apart from gathering signatures, BNS consulted their supporters on the draft bill and incorporated some of their suggestions in the amended draft bill. This bill was passed by the Senate in 2015, while it is still to be debated in the Parliament. This civic initiative is a novel instrument used to amend the labour legislation.

Third, in a context where unions and employers’ confederations are not allowed to negotiate cross-sectoral collective agreements, while their input into the national tripartite bodies is largely ignored by the government, some unions attempted to find new ways to fight against the precarization of employment conditions by altering their role. BNS decided to change their strategy from focusing on collective bargaining to providing individual services to members as
well as non-members, belonging to vulnerable groups of workers, such as the self-employed and migrant workers. BNS developed a virtual interface to improve their communication with members and the interconnection between all structures within the confederation. This platform, launched in August 2015, was part of the initiative called ‘smart trade union’. It required affiliated organizations and individual members to register on the electronic platform in order to get quick access to a wide range of services, varying from assistance with collective bargaining for affiliated unions, to individual bargaining, health and safety as well as financial and legal advice for individual members. Considering that some members may not have internet (or phone) access, this initiative provides three options for the members to contact unions, namely (a) to visit territorial or company-level unions operating in their geographical proximity; (b) to phone a specialized call-centre which registers their queries and directs them to a dedicated team of experts in their specific area and; (c) to use the online platform to register their queries. In addition, this platforms allows BNS to provide information and particular services for potential members, such as students, unemployed and Romanian emigrants; if they register as associated members, they get selected individual services for free (i.e. support in getting a job and training). Although this initiative has been rather recently implemented and the outcomes have yet to be assessed, it has the potential to provide support for vulnerable groups of workers.

BNS has changed its strategy from a partnership with the government and employers’ associations via collective bargaining and tripartite negotiations to servicing their members. BNS has used service-oriented instruments, such as providing information on employment conditions for members as well as to advise those who could become union members, such as students, non-standard workers and migrant workers. Second, the target group was broadened to service and organize prospective members (not only members). The platform allows organizing potential members from under-represented groups, including young workers, teleworkers and other workers on non-standard contracts. It also facilitates support for workers changing jobs to another company or to a different country. While the BNS initiative has the potential to support vulnerable groups of workers, the short-term and long-term outcomes for workers are yet to be seen.

Finally, there have been national initiatives to reduce informal work. The government sought to decrease informal work primarily by strengthening the role of labour inspectors and through information campaigns. Despite increasing the number of labour inspections and imposing higher fines for illegal practices, employers and unions’ officials suggested that the government approach has not been successful in reducing informal work, mainly because there is a small number of labour inspectors and some of them are corrupt. Both employers’ association and trade unions officials interviewed suggested that legal changes to the SDA are needed to enable them to negotiate national collective agreements to cover all employees to reduce informal working practices. While unions want to reduce social damping, most organized employers want to reduce unfair competition from employers using illegal practices to reduce the costs of labour. Although the government, trade unions and employers are in agreement about the need to reduce informal work, they often suggest different solutions to deal with it. The main actions used by social partners to address informal work and other forms of precarious work in the selected sectors will be discussed next.
2.2.1 Construction

2.2.1.1 Economic developments and employment trends in construction

The construction sector was the worst hit by the 2008 recession (Trif, 2013), despite being considered the ‘engine’ of the Romanian economic boom in the 2000s. According to an employers’ association official, the turnover has declined from “15.3bn in 2008 to 8bn in 2015”, due to a decrease in both public and private investments. The decrease in market demands resulted in almost 19 percent decline in the number of employees in the sector between 2008 and 2014, while self-employed workers increased from a third of the total labour force in 2008 to 45 percent in 2010, and 40 percent in 2014 (see Table 4). There was a reduction of the number of employees in large (often multinational) companies. These large companies generally get major construction projects, and subsequently, they subcontract most of the work to several other companies that also subcontract work to very small companies and self-employed workers. It was reported that the second and third tier companies found it more difficult to get work contracts and sometimes, there were delays of up to three years in the payments of the work done by subcontractor companies. As a result, many companies at the bottom of the subcontracting chain became bankrupt or they may have been operating in the informal market, which led to a decline in the number of employers by over 50 percent from 2008 to 2014 (see Table 4). The long chain of outsourcing for public works and the small size of most private works make the construction sector one of the most prone to illegal employment practices.

Respondents were moderately confident about the growth prospects in the sector. Despite the drop in investments, the availability of the EU Structural Funds for thermal insulation of state-owned buildings since 2009 made the effects of the recession less severe (Trif, 2013). Additionally, there is an expectation that the demand for private and public construction work will increase with the economic growth. Nevertheless, respondents raised concerns about the lack of a long-term public investment strategy in infrastructure as well as the bidding process for public works, which allegedly favours large companies and lacks transparency, and sometimes leads to corruption. Furthermore, there have been labour shortages since the 2000s, due to massive emigration of skilled construction workers (“skill drain to Western Europe” – interview, employers’ association official). In addition, there is a rather negative public perception of working conditions in the sector linked to its inherited precarity (i.e. seasonal work prone to health and safety issues due to the physical nature of work) and a widespread use of informal employment practices. In this context, both representatives of employers and unions raised concerns about the limited potential to attract high-quality employees in the sector.
Table 4: Employment in construction (2008-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total labour force (thousands)</td>
<td>691.5</td>
<td>626.1</td>
<td>627.8</td>
<td>610.9</td>
<td>606.3</td>
<td>631.7</td>
<td>627.9</td>
</tr>
<tr>
<td>out of which:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent of employees</td>
<td>66.6</td>
<td>61.3</td>
<td>55.1</td>
<td>58.7</td>
<td>61.9</td>
<td>58.3</td>
<td>59.9</td>
</tr>
<tr>
<td>Percent of self-employed with employees (employers)</td>
<td>3.3</td>
<td>2.6</td>
<td>1.6</td>
<td>1.6</td>
<td>1.4</td>
<td>1.6</td>
<td>1.7</td>
</tr>
<tr>
<td>Percent of self-employed without employees</td>
<td>28.0</td>
<td>35.0</td>
<td>41.7</td>
<td>38.5</td>
<td>36.1</td>
<td>39.1</td>
<td>37.5</td>
</tr>
<tr>
<td>Percent of unpaid family workers</td>
<td>2.1</td>
<td>1.1</td>
<td>1.6</td>
<td>1.2</td>
<td>0.7</td>
<td>0.9</td>
<td>0.8</td>
</tr>
</tbody>
</table>

Source: INS (2016)

2.2.1.2 Forms of precarious work

There are three main non-standard forms of precarious work in the construction sector, which have increased since 2008. First, the work in the informal market without any type of contract is the most precarious form, as those workers have no income or job security as well as no social security provisions or voice. It was estimated by a union respondent that the share of workers without a contract accounts for around a third of the total labour force. Moreover, respondents suggested that undeclared work has increased since 2008. A union respondent argued that ‘workers in the construction sector are more prone to operate in the black market than those working in any other sector’. Young Romanian workers doing low skilled jobs and illegal migrants from Moldavia, Turkey, Vietnam, Pakistan and China are the most likely to work without any type of contract (interviews, 2015). The employers’ association official indicated that the fierce competition for large projects is the main reason for some employers providing ‘cash in hand’ to workers as ‘low wages provide a better chance to win a bid’. Nevertheless, he mentioned that “if we identify cases of black or grey employment practices, we’ll never defend them before authorities’. There was an agreement between employers and union representatives that the 2011 legal changes, which led to the abolition of the sectoral collective agreement, led to an increase in informal employment practices. According to a trade union official, the 2011 changes destroyed unions’ role as guardian of the workers’ rights; he also mentioned that workers in small companies are the most likely to be abused by their employers, ‘as they cannot come to ask for union support, they have to protect themselves’. The new legal provisions adopted in 2011 require at least 15 employees from the same company to set up a union.

The second most precarious form of employment consists of self-employed workers without employees (dependent self-employed). They also cannot be unionized, they have no job security and they are the most likely to face delays in payments, as many of them are at the bottom of the subcontracting chain. The share of self-employed workers (without employees) has increased from 28 percent of the total labour force in 2008 to 42 percent in 2010, while there has been a
decline to 38 percent in 2014 (see Table 4). The decrease in market demand for construction workers and increased competition between employers to get construction projects have contributed to a rise in their share of the total labour force, as labour costs for self-employed are lower (employers do not have to pay payroll taxes for their remuneration).

Third, both trade unions and employers’ officials indicated that the share of workers on part-time contracts has increased considerably, as the 2011 legal changes made it easier for employers to use fixed-term contracts. According to the employers’ representative, the flexibility brought in by the 2011 legal changes is particularly helpful for the construction sector, where work is project based and seasonal. He indicated that the number of fixed-term employment contracts has increased a great deal since 2008 ‘to adapt to market circumstances’. Although the official figures indicate that fixed-term jobs in construction have increased just slightly from 10.5 percent in 2008 to 13.6 percent of the total labour force in 2014 (Eurostat, 2016), trade unions estimate that up to half of the labour force in the construction sector is on fixed-term contracts, out of which around 10 percent are ‘daily labourers’ (employing workers for one day was made possible by the provisions of the 2011 labour laws); many day labourers are supplied by temporary agencies. Employees on fixed-term contracts have limited job security and very few of them are represented by unions. They get social security entitlements for the duration of their contracts.

In addition to the increase in non-standard forms of employment in the construction sector since 2008, the massive decline in demand combined with the 2011 legal changes led to a decline in the remuneration for most employees, independent of the type of employment contract. Before 2008, the labour shortages led to relatively high wages for specific categories of skilled workers, such as engineers and welders. At the beginning of 2008, the entry level salary for an engineer with no work experience was close to 700 Euro, while in 2010 it dropped by half due to a reduction of demands for such jobs as well as less opportunities to find work in construction in the EU (Mihai, 2010a). Overall, the average monthly wages declined after 2008 and they were still below the pre-crisis level in 2014 (see Table 5).

**Table 5: Monthly average gross wages in Romania in the construction sector (2008-2014)**

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Euro* (RON)</td>
<td>436.7 (1563)</td>
<td>362.0 (1441)</td>
<td>362.8 (1529)</td>
<td>398.3 (1704)</td>
<td>377.2 (1629)</td>
<td>366.9 (1629)</td>
<td>380.6 (1701)</td>
</tr>
</tbody>
</table>

Source: INS (2016); * Calculated at the exchange rate for January 1st for each year

According to unions, over 80 percent of employers pay their employees the national minimum wage, while many of them provide additional ‘cash in hand’ for workers on all types of contracts to reduce the payroll taxes. Informal payments on top of the national minimum wage vary between 500 to 1000 RON per month; this income is uncertain, as employees do not get it regularly (interview notes). Employees receiving solely ‘cash in hand’ have generally higher wages than those working with an employment contract. According to a union official, ‘workers without a contract receive their black money without thinking about pensions or other social benefits’. In 2015, the minimum sectoral wage recommended by the social agreement between FGS and ARACO is 1750 RON, but employees often accept lower wages to keep their jobs, in a context of low demand and high competition for construction works. Table 6 summarizes the incidence of various precarious employment forms in the construction sector.
### Table 6: Precarious work in the construction sector (dominant forms)

<table>
<thead>
<tr>
<th>Formal employment status</th>
<th>Incidence</th>
<th>Wages</th>
<th>Working time</th>
<th>Job security</th>
<th>Social security</th>
<th>Voice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time (FT) open-ended contract</td>
<td>Declining share due to the fact that large companies reduced their labour force by around 1/3 after 2008, in a context of declining demands and high labour turnover often linked to emigration; FT jobs being replaced by project-based employment, self-employment and illegal work.</td>
<td>Since 2010 sectoral agreement used only as recommendation for companies; over 80% of workers receive minimum wage, while some of them receive an additional 500-1000 RON (€112-225) ‘cash in hand’. Since 2008 the income was also reduced by abandoning meal vouchers. Delays in payments of wages linked to increases in the number of layers of sub-contractors.</td>
<td>Legally stipulated to work up to 10h per day due to seasonal work; new employees trained after working hours.</td>
<td>Decline in construction; reduction of share of standard contracts; since 2008, even large companies keep less than 50% of a stable skill-based employment, with the rest of the labour force employed on flexible contracts.</td>
<td>In accordance with legal stipulation, but solely for the legal wages (not for cash in hand), which limits their pensions and other social benefits.</td>
<td>Relatively strong social partners who established a number of bi-partite institutions to deal with precarious work since 1997. 2011 legal changes destroyed union’s role as guardian of employees’ interests. All employees were covered by the sectoral collective agreement until 2010, while there is limited collective bargaining coverage since 2010. Union density decline from around 30% in 2008 to 25% in 2015.</td>
</tr>
<tr>
<td>Fixed-term contracts</td>
<td>Growing importance due to 2011 legal change which made it easier to use project-based hiring, daily labourers and longer probation period.</td>
<td>Same as in case of FT open-ended employment contract</td>
<td>Same as in case of full-time open-ended employment contracts.</td>
<td>Increased job insecurity, particularly by using daily labourers and longer probation periods.</td>
<td>Similar to above.</td>
<td>Very few are union members.</td>
</tr>
<tr>
<td>Self-employment</td>
<td>Wide spread and important form of employment in recent years because of high flexibility in hiring and firing, seasonal work and several layers of subcontracting.</td>
<td>Similar to the case of employees; more likely to face delays in payments (up to 3 years).</td>
<td>Similar to above.</td>
<td>No job security.</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>No contract (informal market)</td>
<td>Estimated at around 30% by a union official.</td>
<td>Non-EU migrants (i.e. Moldavian, Chinese &amp; Turkish) and young workers more likely to work without a contract and get only cash in hand.</td>
<td>Similar to above.</td>
<td>No job security.</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Source: Interviews with two senior union officials and an employers’ association official in the construction sect
2.2.1.3 Industrial relations in the construction sector

The construction sector is unique in terms of having rather strong bilateral social dialogue structures developed since the mid-1990s to deal with the sectoral specific precarious working conditions. Unlike other sectors, there is no fragmentation of the social partners in the construction sector; there is one employer association, namely the Romanian Association of Building Entrepreneurs (ARACO) and one trade union (see Table 7); the two largest unions merged in 2009 and formed Familia ‘Angel Saligny’ General Union Federation (FGS), which is affiliated to CNS Cartel Alfa. This merger process was not linked to the recession. A senior union official reported that it was an organic merger, as the two unions worked together with ARACO to develop the bi-partite self-regulation institutions. In 2006, the social partners signed the first Romanian sectoral social agreement (for 2007-2009), which covered a broader range of issues than sectoral collective agreements (Trif, 2013). It included issues such as the regulatory framework for complying with the EU regulations as well as ensuring that there is no ‘race to the bottom’ concerning employees’ wages, which might enable employers providing the lowest wages to win tenders.

The social partners in the construction sector have set the terms and conditions of employment through collective bargaining at the beginning of the recession. They concluded collective agreements that covered all employees from the construction sector until 2011 when the legislation changed. Nevertheless, the unions find it far more difficult to negotiate collective agreements at a company level. The local unions may start negotiations only if they have more than 50 percent union density; if not, the FGS together with representatives of employees may initiate collective bargaining in unionized companies, but often employees do not elect representatives because they are afraid that employees’ representatives could be fired. Also, a FGS official indicated that there have been cases of intimidation of local union officials. Nevertheless, there are some companies where unions have very good relations with the employers (Trif, 2013). These developments indicate that collective bargaining in unionized companies depends primarily on the willingness of the local senior management team to deal with unions. Additionally, the new legislation makes it impossible for unions to negotiate collective agreements in over 90 percent of the micro-enterprises which carry out the subcontracted construction work, as they have less than 15 workers.
### Table 7: Industrial relations in the construction sector

<table>
<thead>
<tr>
<th>Trade union (representative)</th>
<th>The General Federation of Trade Unions Familia (FGS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade union density in the sector</td>
<td>Estimations between 10 - 25% in 2015</td>
</tr>
<tr>
<td>Employers’ association</td>
<td>Romanian Association of Construction Entrepreneurs (ARACO)</td>
</tr>
</tbody>
</table>
| | - 323 companies in 2012  
(http://www.araco.org/parteneriatsocial/ccm/2012/ANEXA%20NR.2%20FIRME%20NEGOCIERE%20Acord%20CCM%202.pdf) |
| Collective bargaining | Sectoral level until 2011; social pact to serve as guideline for lower levels collective bargaining  
Establishment level since 2011 in large companies |
| Other key developments | Several bipartite bodies dealing with bad weather, migration, training etc. developed progressively since 1997 |

Source: Interview notes; Trif (2013)

### 2.2.1.4 Trade union and employers’ approaches, actions, best practices

Construction is the only sector investigated where trade unions and the employers’ association ARACO, have long established bipartite structures to deal with precarious working conditions, such as irregular working time due to bad weather. In order to deal with specific sectoral issues, the social partners have developed several bipartite institutions since 1997 that regulate workers’ social protection, training, health and safety, deal with migrant workers and undeclared work and provide private pensions and holiday funds (Trif, 2013). Their development started with the establishment of the Builders’ Social Fund, based primarily on financial contributions of their members; employers contribute 1.5 percent of the value of the construction project, employees with 1 percent of their wages and customers with 0.5 percent of the value of a project. These provisions are stipulated in the Law No. 215/1997, which was adopted at the request of both social partners. The Builders’ Social House manages this social protection fund for employees providing compensation to employees for periods of inactivity due to bad weather. Over 300,000 employees benefited from winter allowance since 1998; the number of employees receiving winter allowance increased by 20 percent between 2008 and 2011, due to less work available since the recession (Trif, 2013).

In addition, social partners used the existing bipartite institutions to get EU Structural Funds to provide support for employees during the temporary interruption of work as well as for training and other joint initiatives. Social partners established other bipartite bodies to deal with precarious working conditions, such as the Health and Safety Construction House (Casa de Siguranță în Mediul de Muncă a Constructorilor – CASIMCO) funded primarily by EU structural funds. CASIMCO was set up in 2007 to improve health and safety for construction workers. They organize annual training on health and safety issues, which are particularly relevant for the self-employed and for small companies (interview notes). CASIMO also provides individual services (i.e. legal advice) to vulnerable categories of workers, such as immigrants working in Romania and Romanians working in the construction sector in other EU countries.
(i.e. Ireland, Italy and Spain). Nevertheless, bipartite bodies relying entirely on EU structural funds such as CASIMCO operate sporadically, being contingent on the availability of EU funds, while the Builders’ Social House has been delivering continuous financial support to vulnerable employees, as their funds are primarily contingent on the contribution of all stakeholders.

There have been other joint initiatives developed by FGS and ARACO that have been less successful. First, they have regular meetings and actions to fight against informal work, but results ‘are modest’ (interview notes), as there are short-term advantages for both employers and workers to get ‘cash in hand’. Second, both social partners seek to improve the skills of construction workers, as they have concerns about the quality of construction works. They established a bipartite body called the Construction Trade Development House (Casa de Meserii a Constructorilor - CMC) in 2004, which provides regular training and certifications. Although the training provided is very useful for the participants according to the respondents, the high labour turnover (associated with high emigration and challenging working conditions) reduces its effectiveness in improving the quality of construction works. Finally, the bipartite and tripartite national bodies, such as the Sectoral Commission for Social Dialogue and the Economic and Social Council, have no influence on policies concerning the construction sector. According to a union respondent, ‘The Economic and Social Council is a dead body that nobody takes into consideration, not even its members’ (interview, 2015).

Despite long-term established cooperative relations between the unions and the employers’ association, they have different views concerning non-standard forms of employment. While unions would prefer employers to provide standard employment contracts, by and large, employers are happy with the flexibility provided by the 2011 legal changes. The representative of employers indicated that ‘the 2011 changes provided employers a breath of fresh air, as the termination of employment contracts is less fussy, cumbersome and bureaucratic’ (interview, 2015). The main challenge for employers is to find skilled workers on the Romanian labour market (i.e. welders), as most experienced workers have emigrated. Both social partners agree that the social agreement in place since 2011, is far weaker than the previous collective agreements, as it provides only guidelines for the employers. The lack of a sectoral collective agreement covering all employers (and their employees) contributed to a ‘race to the bottom’ concerning employees’ wages, resulting sometimes in unfair competition, as it enable employers providing the lowest wages (often based on ‘cash in hand’ payments by their suppliers) to win tenders. Respondents mentioned that Labour Inspections are not effective in reducing undeclared work, and ARACO and FGS are looking together for alternative solutions to fight against informal work.

The sectoral union federation, FGS, strives to reduce the number of non-standard contracts, but it does not have an explicit strategy to deal with employees on non-standard contracts. A union respondent indicated that they encourage company-level union representatives to persuade employers to switch non-standard contracts to full-time open-ended contracts. Nevertheless, he revealed that ‘it’s increasingly hard to find today a full-time, stable and decently paid job’, suggesting a degree of acceptance of non-standard contracts. Union respondents indicated that the 2011 legal changes have reduced their role and influence in setting up the terms and conditions of employment for their members. Despite having rather good relationships with the sectoral employers’ association, a senior official of FGS indicated that ‘I think we cannot claim great achievements in the last five years; on the contrary, we did little for our members and we lost a
the law allows us to unionize only firms with more than 15 employees, while it forces us to gain sectoral representativeness by making reference to the entire labour force, independent of the firm size’. It is virtually impossible for the employers’ association members to cover more than 50 percent of the sectoral labour force to enable them to extend the collective agreement to all employers in the sector with ‘around 45 percent of the labour force employed by firms with less than 10 employees’ (interview, union official, 2015). Thus, legal changes are required to reinstate sectoral collective bargaining in order to have collective agreements covering all employees, to enable the social partners to fight against a race to the bottom for wages. Also, legal changes are required to allow unions to organize workers in small companies and self-employed workers.

2.2.1.5 Concluding remarks

In the context of labour market deregulation, precarious work forms have increased since 2008 seeking to deal with the massive decline in the demands for construction workers. Official statistics show a rise in the share of self-employed and fixed term contracts (Table 4), while findings also reveal that different forms of informal work have increased. Accordingly, the most precarious forms of employment in the construction sector are informal work, self-employed and fixed-term contracts, including daily contracts. Trade unions would like to reduce the number of non-standard employment contracts while accepting that employers provide work for the duration of the construction projects. In contrast, employers are pleased with their increased prerogatives to use non-standard contracts since 2011. Nevertheless, considering the seasonality and flexibility of work in the construction sector, the union and the employer’s association have developed bipartite fora to work together to improve working conditions for construction workers for almost 20 years. They used those bipartite institutions to reduce income insecurity during the crisis; they also strived to provide additional training and to deal with migration issues.

The rationale behind union actions is the acceptance of functional flexibility contingent of market demands, but they are aiming to stop the race to the bottom in terms of labour standards; unions seek to reach equality in the quality of working conditions amongst different work forms, to ensure that non-standard contracts do not undermine working conditions for their members (who are generally on standard contracts); the rationale for employers’ actions is grounded in regulatory considerations to eliminate unfair (informal) practices as well as organizational considerations (i.e. to attract employees in a context of massive labour shortages and a rather negative image associated with construction work due to its inherited precarity). Both employers and unions adopted an inclusive approach vis-à-vis non-standard workers. To address the needs of the most precarious workers, social partners’ efforts include efforts to increase transparency in public procurement, reducing the share of informal workers and improve health and safety regulations for all construction workers. 

The dominant instruments for social partner actions include sectoral collective bargaining and legislative efforts to make mandatory the financial contribution of all stakeholders aiming to reduce job uncertainty by providing an income when workers cannot work due to unforeseen circumstances, such as bad weather. Nevertheless, the sectoral collective agreement has become rather a guideline after 2011. This led to lower income for most employees, particularly for self-employed and regular employees in small companies at the bottom of the outsourcing chain.
Implications of union and employer approaches suggest an increase of precariousness with a decrease in the importance of multi-employer collective bargaining, following the 2011 legal changes. Although organized employers (most of which are in the middle of the outsourcing chain) would prefer to take wages out of competition, the 2011 legal changes make it virtually impossible to have an *erga omnes* collective agreement in the sector; the current legal framework encourages a race to the bottom concerning labour standards to win bids for large construction projects. From a procedural perspective, social partners’ initiatives in the construction sector, such as bad weather fund, demonstrate visible results of established long-term relationships and institutionalized procedures, which assist in reducing uncertainty in a sector which has an inherent precarious character.

### 2.2.2 Healthcare

#### 2.2.2.1 Economic developments and employment trends in healthcare/hospitals

The healthcare sector has been subject to successive reforms over the last 20 years aiming to make better use of the limited financial resources available (healthcare budget is below five percent of the GDP), primarily by decentralizing and liberalizing public services (Trif, 2013). In 2011, the centre-right government planned to introduce extensive privatization of public hospitals and clinics seeking to reduce public spending, but the draft bill was withdrawn after the reform plan came under heavy criticism from doctors, the general public and social partners. Nevertheless, the government has decentralized and fragmented the governance of public hospitals (which represented around 90 percent of the total number) in 2011; around 25 percent of hospitals remained under the governance of the Ministry of Health, while the others are administered by the local councils or have another type of ownership; also, many hospitals have been closed down (interview notes). The share of employees working in the private sector has increased from 12.8 percent in 2008 to 18.9 percent in 2014 (Table 8). The ownership changes led to variation across organizations in terms of access to public finances and made it more difficult to negotiate sectoral collective agreements.

#### Table 8: Employment in the healthcare sector (2008-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total labour force (thousands) out of which:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent of employees</td>
<td>96.8</td>
<td>96.6</td>
<td>96.8</td>
<td>96.3</td>
<td>96.2</td>
<td>96.5</td>
<td>96.9</td>
</tr>
<tr>
<td>Percent of self-employed</td>
<td>2.7</td>
<td>2.6</td>
<td>2.7</td>
<td>2.8</td>
<td>3.1</td>
<td>2.8</td>
<td>2.3</td>
</tr>
<tr>
<td>Percent working in public sector</td>
<td>86.8</td>
<td>89.7</td>
<td>85.0</td>
<td>83.8</td>
<td>82.7</td>
<td>81.6</td>
<td>80.8</td>
</tr>
<tr>
<td>Percent working in public sector</td>
<td>12.8</td>
<td>9.8</td>
<td>14.6</td>
<td>16.1</td>
<td>17.2</td>
<td>18.2</td>
<td>18.9</td>
</tr>
</tbody>
</table>

Source: INS (2016)
The austerity measures imposed by the government since 2008 have led to the precarization of working conditions in the public sector. Before the recession, the five union federations representing healthcare workers managed to increase wages for their members through branch level collective bargaining from 89 percent of the national average salary in 2004 to 98 percent in 2008, due to the economic boom and staff shortages (Chivu, 2011). A study conducted by Rotila and Celmare (2007), showed that 58 percent of managers in public healthcare organizations indicated a shortage of staff (doctors and nurses) due to emigration and over 90 percent of managers considered that higher wages and better conditions are required to retain staff. In spite of staff shortages, the government unilaterally cut wages of the healthcare employees by 25 percent in 2010; this measure was part of the austerity measures agreed with Troika. Additionally, despite the provisions of the branch collective agreement for 2008-2010, employees did not receive the so-called ‘13th salary’ (a supplementary month’s wage), bonuses linked to seniority and overtime payments. Overall, the average wages have declined by 19 percent between 2008 and 2011 (Table 9). Despite the fact that the 25 percent reduction was progressively restored and the minimum wage was increased from 600 RON in 2009 to 1050 RON in 2014, monthly average gross wages (in Euro) have not reached a pre-recession level in 2014 (Table 9). Junior doctors and nurses get the minimum wage when they enter the labour market, earning less than an experienced cleaner or porter, regardless of their higher responsibilities and education; also, an ambulance driver earns three times less than a chauffeur employed by a ministry to transport government officials (interview notes). Thus, wage scales introduced by the law in 2010 [law 283/2010] are considered unfair and there are attempts to amend them in 2016.

Table 9: Monthly average gross wages in Romania in the healthcare sector (2008-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Euro* (RON)</td>
<td>475.5 (1702)</td>
<td>454.7 (1810)</td>
<td>393.6 (1659)</td>
<td>385.2 (1648)</td>
<td>416.1 (1797)</td>
<td>450.9 (2002)</td>
<td>459.8 (2055)</td>
</tr>
</tbody>
</table>

Source: INS (2016); * Calculated at the exchange rate for January 1st for each year

Unsurprisingly, the intensification of work associated with a decline of the healthcare staff incomes and a perception of unfair wage scales had major effects on the labour market.

- First, it increased the emigration of doctors and nurses to other EU members’ states (Stan and Erne, 2016). While before 2008, there were shortages of specific specialists in Romania, such as anaesthetists, surgeons and radiologists, since 2011 there have been shortages of virtually all types of doctors and nurses (interview notes). The employers’ association official revealed around 500 doctors emigrate every month, primarily due to limited financial resources, which makes it difficult to buy adequate medical equipment that is often imported from Western Europe. The intensification of emigration was also facilitated by the fact that there is a shortage of healthcare personnel in the old EU members’ states, where salaries for doctors are generally seven times higher than in Romania (interview notes), in a context of limited employment restrictions for Romanian citizens following Romania’s accession to the EU in 2007.

- Second, it was reported that a number of doctors and nurses working in the public sector get formally or informally a second job in the private sector to supplement their income to enable them to pay their mortgages and have a decent living standard. The use ‘envelope
payments’ for doctors and nurses and other informal practices utilized before 1989 have continued in recent years. Additionally, respondents indicated that some doctors are reporting ‘fictional’ patients to enable them to get the maximum level of public funds. Nevertheless, there was an intensification of controls by anti-corruption agencies after 2008. The low wages in the health care sector have facilitated informal payments or getting a second job to get a decent living standard.

- Third, the total labour force in the healthcare sector has declined from 401.5 thousand in 2008 to 368.3 thousand in 2014, while the vast majority of them have standard employment contracts (see Table 8). The percentage of self-employed remained relatively stable at around 2.5 percent of the total labour force. Part-time contracts are very rarely used (less than 1 percent, according to Eurofound data), generally to replace a member of permanent staff on maternity leave (interview notes). Considering the rather low income, it appears that employees cannot afford to work part-time in the healthcare sector.

Although there was not a rise in non-standard forms of contracts since 2008, there has been an increase in precarious working conditions in the healthcare sector. The official reports elaborated by the Ministry of Health after 2010 (Romanian Government, 2011b; 2014b) confirm that understaffing is one of the key issues in the sector leading to high levels of stress, exhaustion and an increase in the number of work accidents (Table 10).

**Table 10: Evolution of work accidents in health care and social assistance sector, 2008-2014**

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>74</td>
<td>73</td>
<td>77</td>
<td>88</td>
<td>120</td>
<td>71</td>
<td>96</td>
</tr>
</tbody>
</table>

Source: INS (2016)

### 2.2.2.2 Forms of precarious work

Although there has been an increase in the precariousness of working conditions in the healthcare sector since 2008, it has not been associated with low job security (non-standard contracts), but with low wages and high workload (see Table 11). As Table 8 indicates, the vast majority of employees have full-time standard employment contracts. In the public sector, virtually all employees have standard open-ended contracts, while under three percent of the total labour force are self-employed, most of them being doctors working in the private sector. Similar to the period prior to the recession, the government sets wages through legislation in the public healthcare sector. Nevertheless, the austerity measures as well as changes in the calculation of wage scales after 2008 resulted in over 60 percent of the total labour force getting only the minimum wage (interview notes). Furthermore, there was an increase in workload, as one of the provisions of the austerity measures stipulated that public organizations could replace only one member of staff for every seven leaving an organization (Trif, 2013). Also, the 2011 labour laws made it easier for employers to use unpaid overtime. Union officials indicated that healthcare workers’ wages had been reduced by up to 45 percent in 2010, while there was work intensification and unpaid overtime required to make sure that patients were safe in hospitals, in a context of increased staff shortages. Thus, low wages and increased workload for employees on standard contracts are the main dimensions of precariousness in the healthcare sector, which contributed to increased emigration since 2008.
Table 11: Precarious work in the healthcare sector (dominant forms)

<table>
<thead>
<tr>
<th>Formal employment status</th>
<th>Incidence</th>
<th>Wages</th>
<th>Working time</th>
<th>Job security</th>
<th>Social security</th>
<th>Voice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time (FT) open-ended contract</td>
<td>The most common employment form. Fixed-term and part-time contracts very rarely used (i.e. to cover maternity leave).</td>
<td>Public sector The government sets wages through legislation. Austerity measures led to major wage cuts in 2009-10, which have been gradually restored. Over 60% of the labour force has minimum wage since 2008. Entry-level positions, including doctors get minimum wage. Doctors often get ‘envelope payments’ to supplement low wages.</td>
<td>The 2011 law made it easier for employers to use unpaid overtime. Huge increase in workload since 2008, due to austerity measures that allowed to replace only 1 out 7 departing employees.</td>
<td>High (staff shortages).</td>
<td>According to the legal stipulations for the legal payments.</td>
<td>Relatively high for nurses, less for other occupations.</td>
</tr>
<tr>
<td>Private sector</td>
<td>The cost of services regulated by government for doctors who avail state funds, which limits their income. Reporting of higher number of patients by some doctors to get more public funds. Low wages led to massive emigration of doctors and nurses since 2008. “Around 500 doctors emigrate every month since 2012” Interview Employers’ Association official</td>
<td>According to the legal stipulations.</td>
<td>No special pension or insurance provisions for employees who get serious illnesses at work (i.e. a contagious disease).</td>
<td>Several protests against austerity measures, to change the wage scales and to increase investment in the sector.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-employment</td>
<td>Common especially amongst dentists and medical doctors; increasing incidence in the private sector; also, some nurses and doctors working in the public sector use it as a second job to supplement their income.</td>
<td>Competitive, especially for dentists and doctors; nurses receive similar salaries with those in the public sector.</td>
<td>Working time individually negotiated between employer and employee.</td>
<td>Market driven</td>
<td>According to the legal stipulations.</td>
<td>Unions cannot unionize self-employed workers.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Unions involved in negotiating special legal provisions for self-employed in the healthcare sector in 2015, to enable them to work with the equipment and technology provided by the contractor; some of their members of full-time contracts are also self-employed.</td>
</tr>
</tbody>
</table>
As indicated by the empirical evidence summarized in Table 11, job security, social security and employee voice for healthcare employees are not precarious. In a context of labour shortages, job security is not an issue for workers in the healthcare sector. Social security is generally paid according to legal stipulations, except for ‘envelope payments’ which supplement the formal wages for some doctors and nurses. It was reported that there is no insurance or financial support for employees who get serious illnesses at work, such as a contagious disease in the hospital (interview notes). Finally, union density is quite high for nurses. Unions in the healthcare sector have been amongst the most active in fighting against austerity measures (Trif, 2013).

2.2.2.3 Industrial relations in the hospital sector

Unlike in the other sectors investigated, industrial relations in the healthcare sector takes place mostly at the sectoral level. Before 2010, the five sectoral trade unions federations (see Table 12) have negotiated with representatives of the Ministry of Health a sectoral collective agreement for 2008-2010, which covered all employees in the sector. In a context of labour shortages, unions managed to achieve over 10 percent wage increases and other benefits before the recession, such as loyalty bonuses and meal vouchers (Chivu, 2011). Nevertheless, by 2009 the agreed provisions of the collective agreement were no longer implemented. The government introduced a new law in 2009 which centralized the payment of salaries for all public sector employees. Healthcare employees lost most of their bonuses and benefits achieved via collective bargaining in the 2000s, despite protests and opposition from trade unions. In addition, the provisions of the SDA and the fragmentation of ownership of hospitals made it more difficult for trade unions to negotiate a sectoral collective agreement. Following the 2011 legal changes, only the Sanitas Federation remained representative at sectoral level. Relevant unions initially signed a collective agreement with the hospitals operating in Bucharest and subsequently, they negotiated a sectoral collective agreement covering employees working for different public sector organizations across the country. Healthcare is one of the very few sectors where unions managed to negotiate a sectoral collective agreement after the legal changes of 2011.
Table 12: Industrial relations in the healthcare sector

| Trade unions | • Sanitas Federation (Federatia Sanitas) – around 120,000 members in 2009 (representing nurses, midwives, healthcare assistants etc).
  | o Around 100,000 members in 2015
  | o The only representative federation at sectoral level since 2011
  | • National Trade Union Federation Ambulanța (Federația Ambulanța) - around 13,000 employees of all ambulance services in 2009
  | • Free Trade Unions Federation from Sanitary Units of Romania (Federația Sindicatelor Libere din Unitățile Sanitare din România, FSLUSR)
  | • The National Trade Unions Central from Health and Social Care (Centrala Națională Sindicală din Sânătate și Asistență Socială, CNS SAN ASIST)
  | • National Free Trade Unions Federation of Technical, Business and Administrative Personnel of Healthcare and Balneary Units (Federația Națională a Sindicatelor Libere Tehnic-Economic și Administrativ din Unitățile Sanitare și Balneare, Federaţia TESA USB)

| Employers’ associations and members in healthcare | Romanian Private Medical Services Association (Patronatul Furnizorilor de Servicii Medicale Private, PALMED) established in 2012
  | - 60 private organization employing around 15,000 employees

| Dominant bargaining level for collective agreements | Sectoral/multi-employer level
  | - 80% coverage in 2015
  | - 100% coverage until 2010

| Other developments | Sectoral commission for social dialogue

Source: Chivu (2011); interviews with a trade union official, an employers’ association official and a Ministry of Health official

The latest sectoral collective agreement was negotiated in 2015. It covers circa 80 percent of the labour force working mostly in the public healthcare and veterinary sectors (interview notes). Unions managed to get a 25 percent wage increase for the medical doctors and nurses, following negotiations with the Government. As a result, the net monthly salary average in the healthcare sector increased by 16.7 percent in October 2015, but it was still slightly below the national monthly wage average (Anghel, 2015).

The healthcare sectoral collective agreement has a special significance, as it was the first agreement for which unions have made a formal request to be extended to cover all employees within a sector. Although social partners fulfill the quantitative legal requirements for extension (i.e. employers who signed to agreement employ more than 50 percent of the total labour force in the sector), it has not been extended yet, due to procedural issues (interview notes). Respondents indicated that the legislation is unclear regarding the role of the tripartite body that should approve the extension of sectoral agreements. Also, some terms of the legal provisions such as employer, are open to interpretation; in Romanian there are different words for employers in general – angajator, and private employers – patron, and the wording of the legislation seems to

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6 Union officials operating in other sectors (i.e. steel industry) revealed that they are waiting for a decision in relation to the extension of the sectoral agreement in the healthcare sector, before starting procedures for extension of sectoral agreements’ in other sectors.
refer to private employers’ associations – *organizatii patronale*, which makes it very difficult to implement it in a context where most employees work in public sector (interview notes).

On employers’ side, the uncertainty associated with frequent legal changes in the healthcare sector, including the 2011 labour law changes, led to the emergence of the first employers’ association of private healthcare organizations (interview notes). Employers formed the Romanian Private Medical Services Association (PALMED) in 2012 seeking to have an input into the never-ending legal changes affecting the healthcare sector. In 2015, PALMED consisted of 60 private organizations employing around 15,000 employees (interview, 2015). Findings suggest that employers are very concerned about the underfinancing of the sector, which in turn leads to massive emigration and affects the quality of the services provided. PALMED participates to the discussions of the sectoral commission for social dialogue. The newly created employers’ association has worked together with unions aiming to increase the budget for the healthcare sector and to decrease illegal practices, as will be discussed in the next section.

### 2.2.2.4 Trade union and employers’ approaches, actions, best practices

Trade unions in the healthcare sector used three inter-related sets of actions to address precarious work, particularly low wages. *First*, unions organized several protests against austerity measures and labour law changes and the decentralization of the healthcare sector. The Sanitas Federation was involved in several protests organized by CNSLR Fratia Confederation (to which it is affiliated) since 2009, including picketing the Ministry of Health and marches in 2010, demanding to restore wages to the pre-2009 wage cuts level and to bring an end to a hiring freeze. Also, protests were organized by Sanitas Federation in 2013 and 2014 demanding an increase by one percent of GDP of the budget for public healthcare, wage increases and a new salary law specific to healthcare professionals. Although unions (working together with other organizations) have been successful in stopping the privatization of the accident and emergency services and raising awareness of the challenges facing the healthcare sector, by and large, unions’ demands were not met by successive governments that were in power since 2009. Unions’ protests did not focus on non-standard groups of employees, as indicated by a union official

> Our mobilization efforts through protests meetings, marches and strikes, did not target a particular vulnerable group; we tried to improve working terms and conditions for all employees, which in turn, would sustain healthcare standards for patients (interview, 2015).

In a context of low wages and high workloads as well as a small share of non-standard contracts, it is not surprising that the union tried to improve working conditions for all employees.

*Second*, healthcare unions sought to negotiate with the government a package of measures to improve the working conditions through collective bargaining aimed at getting a collective agreement as well as legal changes, in a context where wages in the public sector are set by the law. Unions negotiated in 2013 a two year collective agreement that covers around 80 percent of the labour force in the public sector. It improved primarily working time (i.e. increased annual leave) and the ability of local unions to verify the implementation of the legal stipulations, which are not always enforced by managers (Interview, 2015). In addition, unions tried to negotiate
with the government legal changes aimed at increasing wages and other monetary benefits for health care workers, particularly for workers on minimum wage. According to a union official, their negotiations had limited effects. The minimum wage was unilaterally increased in recent years by the government, as this is one of the criteria required to adopt the Euro. Similar to protest actions, both collective bargaining and legal changes initiated by unions have targeted employees on standard contracts.

Moreover, the third type of unions’ actions focused on promoting non-standard work. Unions in the healthcare sector have initiated a new law for self-employed professionals which was adopted in 2015, to allow professionals to use medical equipment and materials provided by a contractor (i.e. hospital) while having a contract for service. While this legal change could be considered controversial as it promotes non-standard work, unions sought to support some of their members (and retired personnel) to get an additional job in the private sector to supplement their income. Also, the Sanitas union got funds for five EU projects since 2009 to provide training and additional qualifications for their members (some of them targeted vulnerable groups, such as single parents), primarily to enable them to get a second job in the private sector, to provide care for elderly, children etc. In a context of rather unsuccessful traditional actions to ensure a decent living standard for healthcare employees on standard employment contracts, the Sanitas union took pragmatic actions to support their members to supplement their income by facilitating the process of getting non-standard contracts. Although both the Sanitas union and government representatives interviewed considered that healthcare employees should have standard employment contracts, the main union federation assisted their members on standard contracts to get additional income, in a context where over 95 percent of employees have standard contracts, there is a chronic shortage of nurses and doctors, while their income is rather low.

In addition, unions have successfully worked together with the employers’ association to introduce via legislation a healthcare card to limit illegal payments, primarily for doctors. Some doctors used to record fictional patients in order to get the maximum subsidy from the government which is contingent on the number of patients. The new law requires each patient to get a healthcare card. Healthcare professionals must use the individual healthcare card to register each visit, which makes it far more difficult to register ‘fictional’ patients. Also, government agencies have been more active in suing healthcare professional, especially doctors, who take ‘cash in hand’ from patients (interviews, 2015). There has been a custom to pay additional ‘cash in hand’ to doctors and nurses (which started prior 1989), in order to compensate for low wages in the healthcare sector.

While the government, employers and unions have agreed to take legal actions to reduce illegal practices, no joint solution has been found to address low wages and high workloads in the sector, which in turn, led to massive migration of doctors and nurses. A representative of employers indicated that

Around 500 doctors emigrate every month since 2012; there is a shortage of doctors even in big cities; it has become an endemic issue, not just for radiologist and anesthetists; in a couple of years, it will be a tragedy (interview, 2015).

In order to address this issue of massive emigration, he suggested that the government should provide a special status to doctors to reduce the amount of taxes that they have to pay, similar to
the provisions for IT workers. However, the employers’ association has not been successful in convincing the government to implement this measure. Also, despite the fact that the Sanitas union was one of the most active in mobilizing workers, negotiating (together with other federations) the first sectoral collective agreement that has the potential to be extended to cover all employees in the sector, unions had rather limited success in increasing wages and decreasing the workload, which are the main dimensions of precarious work in the healthcare sector.

2.2.2.5 Concluding remarks

The austerity measures implemented in the public healthcare sector, particularly the massive wage cuts and the quasi employment freeze, led to growing dissatisfaction with working conditions for employees on standard contracts. Employees on standard contracts are unhappy with low wages (i.e. a massive increase in the share of employees on minimum wage) and high workload, although non-standard forms of contracts are rare and did not increase since 2008. In addition, employees and unions were discontented with the 2011 legal changes that undermined employment rights, while both unions and employers were discontented with the frequent changes in the laws governing the healthcare sector and the underfinancing of it, which creates uncertainty.

Although the protests against austerity measures have been rather unsuccessful, trade unions have been successful in negotiating two sectoral collective agreements since 2011; the first one improved provision concerning working time (i.e. increased annual leave), while negotiations of a package of measures with the Government in 2015 led to wage increases. Somewhat surprisingly, unions have been involved in a legal change that promotes self-employment for doctors and nurses to help them to supplement the low income they receive for their work on a standard job. Nevertheless, both the union and the government consider that standard employment contracts should be the norm, while non-standard forms should be used only when an employer cannot find employees on standard contracts.

The rationale behind union actions is to support employees to find alternative ways to supplement their low wages, in a context where the Government sets wages for public sector employees. It is also likely that the Sanitas union strived to be visible and provide tangible results to stop the massive decline of union members (Trif, 2013), following the arrest in 2011 of their leader, Marius Petcu, who was accused of corruption. It was reported that the union managed to regain the pre-2011 membership by 2015. Hence, the organizational rationale was very important for the largest union in the sector to improve its internal legitimacy. Interestingly, the response of private employers in the healthcare sectors has been to organize into an employers’ association to get involved in the potential extension of the sectoral collective agreement as well as to have a say into the frequent legal changes concerning the sector. Furthermore, the employers’ association worked together with the union to introduce the healthcare card to reduce illegal practices. The main rationale for employers’ actions was an economic one; as representatives of private employers were not part of the negotiating team, they opposed the extension of the sectoral agreement to their members to maintain control over labour costs. By and large, unions and the employers’ association adopted an inclusive approach; their actions are seeking to cover all employees in the sector. Nevertheless, the union initiated a special law for the self-employed, which suggests a degree of separation.
The dominant instruments used by trade unions were multi-employer collective bargaining, lobbying for legal changes as well as protests against austerity measures and legal changes that undermined employment rights. Although protest actions against austerity measures were not effective in stopping their implementation, the fact that they demonstrated their mobilization capacity has helped the union to improve their internal and external legitimacy, and it had a positive effect on their capacity to negotiate multi-employer collective agreements. On the employer side, private employers have used organizing in order to influence legal changes and sectoral collective bargaining.

Finally, the implications of union approaches to addressing precarious work in healthcare suggest a pragmatic approach aiming to assist by any legal means their members to increase their income, as low wages is the most precarious dimension in this sector. In a context where over 95 percent of total labour force is on standard contracts (Table 8) and there is a shortage of healthcare staff, the union has facilitated medical staff to get a second job as self-employed in the private sector, both through legal changes and by providing additional training using EU funds (Trif, 2013). Employers are also concerned about low wages and high workloads which led to massive migration of Romanian doctors and nurses. Apart from the fact that both social partners agree that there should be an increase in public spending to at least six percent of the GDP, employers suggested that there should be tax incentives to reduce the emigration of doctors and nurses. Summing up, the shortage of human and financial resources in the healthcare sector has affected the services provided and led social partners to suggest (this was the main theme one of their common marches demanding increased public spending for the healthcare sector in 2013) that ‘the Romanian healthcare system in getting into coma’. There are dire prospects for the healthcare services unless policies are introduced to increase the financial resources and to reduce the emigration of healthcare staff.

2.2.3 Metal

2.2.3.1 Economic position and employment trends

The metal sector employs around 300,000 workers, being one of the most important industries in Romania. The total number of employees declined from approximately 335,000 in 2008 to 294,000 in 2014 (Table 13). By 2014, approximately a third of the labour force lost their jobs in each metal sub-sector, except the automotive industry (Table 13). Job losses were primarily linked to a reduction in global demand for most goods and components manufactured in Romania. Nevertheless, there was an increase in demands for relatively cheap cars produced in Romania, which led to employment growth in the automotive industry since 2009.

The automotive industry is the largest sub-sector of the metal sector. It employed around a third of the sectoral labour force in 2008, which increased to almost 50 percent in 2014 (Table 13). Unlike in the other sub-sectors, the labour force in the automotive industry exceeded the 2008 level by 25 percent in 2014, while its revenues grew from 8bn in 2009 to 18bn in 2014 (FRD Center, 2015). The two main car manufacturers, Dacia-Renault and Ford Motor Company (which bought Oltchim Craiova in 2007), doubled their profits from 2.6bn Euro in 2009 to 5.4bn in 2014; they export more than 90 percent of the cars produced in Romania (FRD Center, 2015).
Overall, the automotive industry exports accounted for almost half (45.8 percent) of the total Romanian exports for the first nine months in 2015 (News, 2016).

Table 13: Employment in the metal sector (number of employees 2008-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steel industry</td>
<td>49,770</td>
<td>38,328</td>
<td>33,570</td>
<td>34,265</td>
<td>33,696</td>
<td>30,006</td>
<td>29,398</td>
</tr>
<tr>
<td>Manufacture of fabricated metal products, except machinery and equipment</td>
<td>102,787</td>
<td>83,537</td>
<td>72,986</td>
<td>70,371</td>
<td>72,630</td>
<td>72,909</td>
<td>72,257</td>
</tr>
<tr>
<td>Manufacture of machinery and equipment</td>
<td>67,761</td>
<td>53,272</td>
<td>49,157</td>
<td>49,499</td>
<td>50,508</td>
<td>47,808</td>
<td>48,550</td>
</tr>
<tr>
<td>Manufacture of automotive for transportation</td>
<td>115,113</td>
<td>99,586</td>
<td>106,984</td>
<td>120,103</td>
<td>127,166</td>
<td>134,622</td>
<td>143,871</td>
</tr>
<tr>
<td>Total</td>
<td>335,431</td>
<td>274,723</td>
<td>262,697</td>
<td>274,238</td>
<td>284,000</td>
<td>285,345</td>
<td>294,076</td>
</tr>
</tbody>
</table>

Source: INS (2016)

The increase in labour productivity coupled with protest actions, including strikes, by Dacia-Renault workers since 2008, led to wage increases in the automotive industry far higher than the national average (Adăscăliţei and Guga, 2015). Nevertheless, labour costs in the Romanian automotive sector is still one of the lowest in the EU (Eurostat, 2016). Also, despite significant wage increases since 2008, workers in the automotive industry still have lower wages than those in the steel industry (Table 14). Unions managed to maintain relatively high wages in steel companies, but circa 40 percent of employees lost their jobs during the recession (Table 13). Overall, wages in the metal sector are higher than the national average and there are very limited, if any, informal payments, such as ‘cash in hand’.

Table 14: Average monthly gross wage in the metal sector in RON (Euro)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steel industry (Euro)</td>
<td>2074 (579)</td>
<td>2169 (545)</td>
<td>2367 (562)</td>
<td>2558 (598)</td>
<td>2764 (640)</td>
<td>2917 (657)</td>
<td>3060 (685)</td>
</tr>
<tr>
<td>Manufacture of fabricated metal products, except machinery and equipment (Euro)</td>
<td>1521 (425)</td>
<td>1556 (391)</td>
<td>1690 (401)</td>
<td>1828 (427)</td>
<td>1897 (439)</td>
<td>2014 (454)</td>
<td>2146 (480)</td>
</tr>
<tr>
<td>Manufacture of machinery and equipment (Euro)</td>
<td>1742 (487)</td>
<td>1853 (465)</td>
<td>1940 (460)</td>
<td>2246 (525)</td>
<td>2349 (544)</td>
<td>2542 (573)</td>
<td>2830 (633)</td>
</tr>
<tr>
<td>Manufacture of automotive for transportation (Euro)</td>
<td>1609 (450)</td>
<td>1865 (469)</td>
<td>2145 (509)</td>
<td>2325 (543)</td>
<td>2513 (582)</td>
<td>2652 (597)</td>
<td>2840 (635)</td>
</tr>
</tbody>
</table>

Source: INS (2016)
2.2.3.2 Forms of precarious work

There are three main non-standard forms of employment contracts used in the metal sector:

- First, there has been an upsurge in outsourcing of non-essential services to reduce costs and to deal with fluctuating market demands in recent years, particularly in the automotive industry (interviews, 2015). For instance, Dacia Renault outsourced the transport of vehicles in 2013; although workers kept doing the same work, their wages were cut to wage levels in the outsourced company (interviews, 2015). It was reported that the first outsourced workers have become quasi-permanent staff working side by side with Dacia Renault workers since 2006, but outsourced employees have lower wages (interviews, 2015). Other large metal companies also outsourced none-core services, such as cleaning and medical care, to reduce labour costs; the cost reduction was primarily related to the fact that outsourced workers no longer receive some special provisions in relation to pensions and other benefits linked to the relatively tough working conditions, which are often included in the company-level collective agreements and bonuses linked to organizational performance in the beneficiary company (interviews, 2015). Workers may be outsourced to other companies operating in the metal sector or to TAWs. There is no statistical data concerning the outsourced workers, as many of them still have standard contracts. Also, it is unclear where the agency workers are included in the TAW sector or in the sector where the beneficiary company operates. The main precarious dimensions for outsourced workers are lower wages than employees in the beneficiary company and job insecurity, particularly for agency workers (Table 15).

- Second, most suppliers of the large multinational corporations (MNCs) in the automotive sector employ between 20 and 30 percent of their labour force via TAWs, according to a senior union leader (Table 15). Agency workers generally have work contracts for two months, which are often extended. It was reported that less than one percent of agency workers get subsequently standard contracts with the beneficiary companies. Hence, job insecurity is the main precarious dimension for agency workers.

- Third, there has been an increase in the percentage of employees on fixed-term contracts since 2011. Employees on fixed-term contracts generally represents less than 10 percent of the labour force in the automotive and steel industries (interviews, 2015; Adăscăliţei and Guga, 2015). Nevertheless, a large company producing automobile cables, employed virtually all new workers on fixed-term contracts after the 2011 legal changes, resulting in circa 50 percent of the labour force being on fixed-term-contracts in 2014 (Trif, 2016b).

Different from the other sectors investigated, there has been an increase in the dualization of the labour market in the metal sector, particularly in the automotive industry (and the IT sector), due to a rise in the use of outsourcing, agency workers and other fixed-term contracts.
<table>
<thead>
<tr>
<th>Incidence</th>
<th>Wages</th>
<th>Working time</th>
<th>Job security</th>
<th>Social security</th>
<th>Voice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Most employees in large companies in the heavy metal and automobile sectors have FT standard employment contracts, while there has been an increase in ‘outsourcing’ of non-essential services, including maintenance services and leasing of personnel from other companies to deal with fluctuations of production demands.</td>
<td>Multi-employer and single employer collective agreements set wages since 2011, but only employers affiliated to relevant employer associations are covered by it. The largest auto company, Renault Dacia has withdrawn from the employers’ association, but it has a collective agreement which provides the highest wages in the manufacturing sector, following 16 days strike in 2008.</td>
<td>Determined according to employers’ needs, including unilateral reduction of working week for FT employees from 5 to 4 days (and the corresponding wages). The new provisions of the 2011 law make it easier for employers to increase unilaterally the workload without consultation with unions, which in turn affects wages.</td>
<td>High for core workers.</td>
<td>Based on the legal provisions.</td>
<td>Decreasing union influence and role at sectoral level, but high in Dacia Renault; it is becoming more difficult to organize non-core workers. Some large foreign employers in the metal sector have contributed to undermining collective legal rights of employees since 2008 (i.e. Mittal).</td>
</tr>
<tr>
<td>Temporary agency work</td>
<td>Wages were lower than those of similar regular employees until the legal changes of 2015. Since 2015, all terms and conditions should be similar to FT workers, but there are ways to get around the new law to pay TAW less (i.e. by changing the job title).</td>
<td>Similar to FT employees. Very low. Most agency workers in the metal sector have contracts for two months.</td>
<td>Similar to the FT, according to the legal stipulations, with the temporary agency having the role of the employer.</td>
<td>Unions focus on core workers, but fear of outsourcing led to inclusion by the largest company union, Dacia Renault. This union triggered a legal change in 2015, which require firms to provide the same conditions of employment, including pay, for agency workers as for regular employees of the user company. The respondent representing TAW employers was pleased with this new legal provision, which requires agency workers to be paid the same as regular employees. Difficult to implement this law. Very difficult to organize agency workers, as they have short term contracts.</td>
<td></td>
</tr>
</tbody>
</table>

Source: interviews two union officials of confederations having affiliated federations from the metal sector, one official of the sectoral automobile industry union and a TAW employer
Apart from job insecurity, lower wages for non-standard workers is a key dimension of precarious work in the metal sector, following the 2011 legal changes. The Labour Code reduced the restrictions concerning employing workers on non-standard contracts, while the SDA got rid of the branch collective agreements that used to cover all employees in companies operating in specific branches of the metal industry prior-2011. It was reported that outsourced and agency workers earn circa a third less than employees on standard contracts in the beneficiary organizations, as they do not get several benefits, such as Christmas bonus, food vouchers and bonuses linked to the organizational performance (interview union official, 2015).

Furthermore, many managers use of a new legal provision of the SDA, which provides them the right to modify unilaterally work norms. Some of them set unachievable targets to deter wage increases for employees on standard contracts. According to a union official

Performance appraisals are means to reduce labour costs; the performance management process, including setting criteria and targets are under the exclusive control of employers, generating abuse. I don’t think that is possible for a company to be profitable when more than 50 percent of its employees perform below expectations, but this happens in some companies (interview, union official, 2015).

The 2011 legal changes made it more difficult for unions to increase wages for all employees. Nevertheless, unlike in other sectors investigated, there are fewer employees on minimum wage.

Employers in the metal industry have also used the new legal provisions, which gave them more control over working time for employees on standard contracts. First, some companies used a new provision that permits a unilateral reduction of the working week from five to four days (and the corresponding wages), to deal with the decrease in demands for their products (Trif, 2016a). Second, employees are asked to work overtime when the company needs it, as companies have the choice either to pay them or to provide employees time off in the following three months when it suits the company (interviews, 2015). A union official indicated that ‘employees working overtime subsidize employers for three months, while previously they were paid immediately for overtime work or they took time off when employees needed it’ (interview, 2015). Thus, there has also been an increase of internal (functional) flexibility for employees on standard contracts, despite the fact that large companies are covered by collective agreements in the metal sector (Table 15).

In sum, the metal industry used both external and internal flexibility to deal with fluctuations in market demands since 2008. On the one hand, external flexibility has been ensured by increasing the use of agency workers and outsourcing to reduce labour costs more than in any other sector investigated. On the other hand, internal flexibility was ensured by using a shorter (reduced working week) or longer (overtime) working hours for employees on standard contracts, similar to other sectors.

2.2.3.3 Industrial relations in the metal sector

Industrial relations in the metal sector are quite fragmented. As indicated in Table 16, there are six main union federations and four employers’ federations operating in this sector. Prior to 2011 there was a degree of coordination of collective bargaining, as various union federations often negotiated together collective agreements for relevant sub-sectors (Chivu, 2010). The main
branches of the metal sector were covered by collective agreements covering all employees in the bargaining unit prior to 2011 (Chivu, 2010). Those collective agreements were complemented by company-level collective agreements concluded by local unions in virtually all unionized companies (interviews, 2015).

The 2011 legal changes resulted in a major decline in multi-employer collective bargaining in the metal sector. First, branch collective agreements could not be enforced after 2011, as the government declared them invalid. Second, although some union federations managed to conclude multi-employer collective agreements after 2011, the number of companies covered by collective agreements has decreased a great deal. The Automobilul Romanesc union negotiated a collective agreement covering 47 companies operating in the automotive industry employing over 60,000 employees up to 2014, while the latest multi-employer collective agreement for 2014-2016 covers only four companies employing circa 850 employees (interview, union official, 2015). Nevertheless, unions continue to negotiate company level collective agreements in most large companies, but the quality of company level collective agreements has been declining in many companies (interviews, 2015); while prior to 2011 there was a clear distinction between the internal regulations manuals and collective agreements (most companies would have both of them), firms are more likely to have either a collective agreement or an internal regulations manual, which also covers wages since 2011 (interview, 2015). The influence of most company-level unions has declined since 2011.

Nevertheless, the metal sector has the strongest unions in the private sector. The steel industry has around 70 percent union density according to a union official, which is one of the highest levels of unionization across both public and private sectors (Trif, 2016b). Also, some company level unions remained very strong; Dacia Renault union is, arguably, the strongest and most influential company level union in Romania (interviews, 2015). It has been influential in both increasing wages (Adăscăliței and Guga, 2015) as well as in triggering a legal change in relation to agency workers getting equal pay to those employees working in a similar job in the beneficiary company. This legal change and other examples of best practices will be discussed in the next section.
Table 16: Industrial relations in the metal sector

<table>
<thead>
<tr>
<th>Trade unions (main federations) and their membership in 2016 (based on data available on the Ministry of Labour website in 2016)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Trade Union Federation Automobilul Romanesc - 2016 <em>(Federația Sindicală Automobilul Românesc)</em> - 21,539 members</td>
<td></td>
</tr>
<tr>
<td>• Trade Union Federation of Car Manufacturing-Infratirea <em>(Federația Sindicatelor din Constructii de Masini Infratirea)</em> - 21,123 members</td>
<td></td>
</tr>
<tr>
<td>• Trade Union Federation Metarom <em>(Federația Sindicala a Siderurgistilor Metarom)</em> - 5,722 members</td>
<td></td>
</tr>
<tr>
<td>• National Trade Union Federation from Non-ferrous Metallurgy <em>(Federația Sindicatelor din Metalurgia Neferoasa)</em> - circa 5,000 members</td>
<td></td>
</tr>
<tr>
<td>• National Trade Union Federation Solidaritatea Metal <em>(Federația Nationala a Sindicala Solidaritatea Metal)</em> – FNSS Metal - 4,055 members</td>
<td></td>
</tr>
<tr>
<td>• Trade Union Federation Solidaritatea-Virgil Săhleanu <em>(Federația Sindicală ‘Solidaritatea-Virgil Săhleanu’)</em> - 2,591 members</td>
<td></td>
</tr>
<tr>
<td>Employers’ associations</td>
<td></td>
</tr>
<tr>
<td>• The Employers Federation of the Ferrous Nonferrous and Refractory Materials Industries <em>(Federația Patronală Metalurgia)</em></td>
<td></td>
</tr>
<tr>
<td>• The Employers Federation of the Machine-Building Industry <em>(Federația Patronala din Industria Constructiilor de Masini - FEPA CM)</em>;</td>
<td></td>
</tr>
<tr>
<td>• The Romanian Employer Organization for Electronics, Electroctechnics, telecommunications and IT <em>(APREL)</em>;</td>
<td></td>
</tr>
<tr>
<td>• The employer organization ARGOS <em>(ARGOS)</em>.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dominant bargaining level for collective agreements</th>
<th>Sectoral + company level before 2011; Mostly company-level since 2011 Multi-employer – declining</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Sectoral bargaining coverage</th>
<th>No sectoral collective agreement since 2011 - Prior-2011 there were branch (sub-sectoral) agreements covering all employees</th>
</tr>
</thead>
</table>

Sources: Ministry of Labor (2016); Chivu (2010); Trif (2016a); Interviews with union officials of Automobilul Romanesc and IT Trade Union in Timisoara (SITT) which it affiliated to FNSS Metal (SITT is affiliated to a metal sector federation, as the IT sector has traditionally been manufacturing IT and electronic products)
2.2.3.4 Trade union and employers’ actions, best practices, examples

By and large employers in the metal sector aimed at expanding flexible forms of employment (organizational rationale) and reducing labour costs (economic rationale) since 2008. It was reported that Ford Motor Company (henceforth Ford) joined the FEPA CM in 2010 with the purpose of downgrading the provisions of the branch collective agreement (Trif, 2016b). While previously representatives of FEPA CM negotiated sectoral agreements, Ford employed a consultancy law firm to represent employers during the negotiations of a new sectoral agreement for 2011-2012. The new provisions of the collective agreement allowed employers to use irregular working hours, reduce lunch breaks, increase workload and provide minimum compensation for work injuries (interview, 2015). The legal experts managed to downgrade the provisions of the previous sectoral agreement to barely minimum standards stipulated by the labour and civil laws, as unions were not use to negotiating with lawyers (interview, 2015). Furthermore, Ford as well as Dacia Renault have withdrawn from the FEPA CM in recent years (interview, 2015). Similarly, a union official reported that most employers in the steel industry are no longer part of the employers’ association, to avoid multi-employer collective bargaining.

In addition, one of the largest metal companies, Arcelor Mittal Galati (which employs around 8,000 employees) influenced the 2011 legal changes aiming to reduce union power (Trif, 2016a). Following a two-day strike in 2008 (when workers asked for a 30 percent pay increase but the strike was declared illegal by a local court), Arcelor Mittal made a complaint that the provision of the trade union law (Law 54/2003) that required employers to provide up to five days paid time off per month to local union officials for union activities is unconstitutional. This case was sent to the Constitutional Court, which upheld Arcelor Mittal’s claim. This decision was incorporated into the labour law in 2011. The increased prerogatives following the 2011 legal changes, makes it possible for employers to get the internal and external flexibility to deal with the fluctuation of market demands. In this context, most employers are reluctant to get involved in collective bargaining.

In contrast to employers, trade unions used several inter-related instruments aimed at reducing precarious employment by providing equal working conditions to agency and outsourced workers. First, Dacia Renault union has initiated a legal change requiring employers to provide the same terms and conditions for agency workers as for workers employed by the beneficiary company. Dacia Renault union has circa 15,000 members out of approximately 20,000 workers working on Mioveni industrial platform. This union represents Dacia Renault employees as well as those of their suppliers working on Mioveni industrial platform (interviews, 2015; Adăscăliței and Guga, 2015). While Dacia Renault does not employ agency workers, TAWs supply up to a third of the labour force for their suppliers (interviews, 2015). The political action started at the request of union members employed on standard contracts (agency workers are generally not unionized), as they feared that their jobs might be outsourced to TAWs to reduce costs (interviews, 2015). As Dacia Renault and its suppliers are the largest employers in Arges region, the union contacted the regional MP to support their petition. Union’s political action, which is rather unique for a

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7 Employers’ representatives were not available to be interviewed. Nevertheless, two managing directors of metal companies were interviewed by the author in 2014; the findings were reported by Trif (2016a).
First, a company-level union, was successful. TAW law was changed in January 2015, requiring employers to provide equal pay for equal work, for agency workers and workers employed by the beneficiary company. Furthermore, the provisions of collective agreements should also cover the agency workers at the beneficiary worksite. Nevertheless, there are issues with the implementation of it, as will be discussed in the TAW section.

Second, unions strive to reduce precarious working conditions via collective bargaining. The 2011 legal changes led a significant decentralization of collective bargaining. Up to 2010, workers in the metal industry were covered by the national collective agreements as well as four collective agreements for different branches of the metal sector, which covered virtually all employees in the bargaining unit (Chivu, 2010: 20-21). In addition, unionized companies had company-level collective agreements that could only improve working conditions set at higher levels. The SDA legal provisions made it virtually impossible to conclude sectoral agreements in the metal sector after 2011. For instance, unions do not have a partner to negotiate a multi-employer collective agreement in the steel industry, as employers have been unwilling to join an employers’ association. In the automotive industry, two multi-employer collective agreements have been negotiated after 2011, but their quality and their coverage have declined a great deal since 2010 (interviews, 2015). As a result, solely employees working in large unionized companies are still covered by collective agreements.

Third, some unions used strikes and other forms of protest to improve working conditions. It was reported that company-level collective bargaining is effective in improving working conditions, only when unions have the capacity to mobilize workers. Strikes and protests organized by the Dacia Renault were successful in increasing wages well above the national level average since 2008 (Adăscăliţei and Guga, 2015:9). Nevertheless, this is aided by the fact that there was an increase in labour productivity. Unions in other metal companies reported that the threat of a strike, protests and media interventions that would create a negative brand image for MNCs, have helped them to negotiate better wages and other terms and conditions of employment (Trif, 2016a). In contrast, a union official mentioned that although virtually all employees are union members in his company, the union has very limited influence over working conditions, as the employer knows that the union would be unable to mobilize workers for collective bargaining purposes (Trif, 2016a).

Finally, the SIIT union organized workers in the IT sector to address specifically the issue of outsourcing. The plan to outsource almost a third of the labour force in Alcatel-Lucent Timisoara (ALU), a Romanian branch of the French telecommunications multinational company, triggered the unionization of IT workers in several companies. Although the IT sector has not been heavily affected by the recession and IT employees are relatively well paid, there has been an increase in job insecurity and labour market dualization to reduce costs in the sector. In 2009, a Romanian employee was informed by a member of the European Works Council (EWC) that ALU plans to outsource 500 employees (out of a total of about 1700) to Wipro Technologies Romania, the local branch of the Indian IT services corporation. It was estimated that the outsourcing will reduce the labour cost up to 30 percent (Mihai, 2010b). This outsourcing plan was part of a global Maintenance Service agreement between ALU and Wipro, through which Wipro took over specific
maintenance and engineering activities in Romania, India, Germany, France, China, Morocco and Egypt.

The EWC has helped the Romanian employees in ALU to unionize in order to deal with the outsourcing. In 2009, a French member of the EWC found by chance, details about the plan to outsource the maintenance services to Wipro in the Romanian branch\(^8\). He passed on this information to a Romanian colleague with whom he was working with on a project (interview, 2015). At that time, the Romanian branch had no members in the EWC or a trade union. The EWC member was keen to inform his Romanian colleagues about it, as he has seen the worsening of working conditions for the outsourced employees in a French branch, where outsourcing to Wipro was already in place (interview, 2015). The outsourced employees were expected to do the same tasks in the same workplace at ALU, while their remuneration and other benefits would be reduced to the level of employees working for Wipro. The perceived unfairness of a sudden worsening of working conditions as well the fact it was evident which employees were going to be outsourced in a few months (interview, 2015), made it easier to organize those employees, despite a lack of tradition in organizing IT workers. Furthermore, the EWC has provided support in the form of training union activists; the French EWC member visited the Romanian branch and talked with the Romanian workforce about the negative consequences of outsourcing in the French branch. The outsourcing plan led to the establishment of the first trade union in the IT sector in Romania in 2009, namely SITT.

The initial aim of the newly created union was to negotiate better terms and conditions of employment for outsourced employees. As the outsourcing of maintenance services was a global strategy, the SITT did not consider that they could stop it. There was also rather limited time to register as a trade union and to begin the collective bargaining process, as the outsourcing plan was to be implemented within a couple of months. Between September and December 2009 the newly created trade union was involved in negotiations with support from the UNI Global and Cartel Alfa Union Confederation, to which SITT become affiliated. Following a series of protests and strikes in December 2009, primarily to support union’s demands for negotiating provisions for job security for the outsourced workers (News, 2009), the SITT concluded a collective agreement for 18 months with the local management and the ALU Chief Executive Officer on 22 December 2009, just a few days before the outsourcing plan was implemented in January 2010. The SITT managed to organize and mobilize the workers at risk to be outsourced, as they feared that they will lose their jobs (interview, 2015). The collective agreement protected the outsourced workers from layoffs for a period of 18 months. Also, there was a provision for a redundancy package (a lump sum between three to 10 months wages contingent of years of service) for the ALU workers (interview, 2015). Thus, the new challenge of outsourcing led to the establishment of the first trade union in the IT sector in Romania, which used rather traditional instruments of organizing, collective bargaining and strikes to defend the working conditions for all employees.

The SITT was amongst the first unions to adopt a novel territorial structure, by organizing employees in different companies. Despite an attack on unions’ rights in 2011, the new legal framework did not explicitly prohibit employees from different

\(^8\) The EWC member found a copy of a memorandum containing the outsourcing plan for the Romanian branch forgotten in a copier, probably by a senior manager.
companies to join the same union. The outsourced ALU workers to Wipro have remained members of the SITT, while the union had also members in the ALU. Nevertheless, the increase of representativeness threshold to more than 50 percent density, led an intensive organizing campaign in 2011 in ALU and Wipro (interview, 2015). By 2012, the SITT has become representative in both companies. Furthermore, when ALU outsourced 100 workers to Accenture in 2012, those employees also remained members of SITT. The union managed to maintain the working conditions for the ALU workers outsourced to Accenture, except bonuses based on organizational performance (interview, 2015). It was reported that entry level wages for IT graduates in Accenture were around 40 percent lower than those for ALU employees (interview, 2015); also, Accenture provided real time information about the performance of each employee to ‘name and shame’ those with poor performance. In this context of high levels of stress and different wages for employees doing similar jobs, the SITT managed to organize other workers in Accenture. Furthermore, there was additional outsourcing from ALU to Alcatel and Wipro in 2014, as well as some insourcing from Alcatel (re-employing by ALU of outsourced workers). The frequent changes of employer for specific groups of workers often aimed at reducing labour costs, despite doing the same job for the same organization in practice, led to a novel form of territorial union federation. Although this union structure is rare in Romania, a similar structure was adopted by a few other large companies, which were divided into several undertakings (interview, 2015). In those cases, the union which used to represent an entire company, has continued to represent each undertaking.

Findings suggest that the local leadership of the SITT, played a key role not only in organizing the outsourced workers, but also by pursuing a strategy of unionizing workers in other IT companies. Despite organizing workers in quite unfavourable legal and economic circumstances since 2009, the SITT managed to become representative and further members’ interests in several IT companies by utilizing traditional (i.e. organizing, strikes, collective bargaining) and new instruments (i.e. collective negotiations led by a lawyer and international support). Furthermore, the non-standard (outsourced) workers have become the core members of each organization, which led to the unionization of the standard workers in several MNCs. In addition to Heery’s (2009) inclusion, exclusion and elimination strategies of unions towards non-standard workers, this study adds that non-standard workers may become core union members.

The successful story of the SITT union constitutes an exception in Romania, being an example of best practice in terms of unions dealing with outsourcing. The union was set up during the recession, it organized young IT workers, and in less than five years, it succeeded in becoming representative and negotiating collective agreements in three IT 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.
2.2.3.5 Concluding remarks

The metal sector is one of the most important industries in Romania, with the automotive industry accounting for almost half of national exports. As it was heavily exposed to global markets, it was significantly affected by the 2008-2009 crisis. The automotive industry recovered quickly due to a rise in the international demand for relatively cheap cars, while the other sub-sectors had a massive reduction of personnel; some companies offered quite generous early retirement or redundancies packages to increase voluntary turnover (interviews, 2015). In addition, the 2011 legal changes resulted in an increase in the use of outsourcing and agency workers to reduce labour costs. Large metal and automotive companies outsourced mostly non-core activities (i.e. cleaning and medical care) to reduce labour costs, while suppliers to large companies increased the use of agency workers for all activities to ensure organizational flexibility to address fluctuations in market demand. Agency workers are often employed for a specific project, leading to limited job security and lower remuneration than workers in the beneficiary company.

Employers’ and trade unions’ responses to address precarious work in the metal sector have been mostly divergent. On the one hand, employers sought to expand the use of external flexibility (i.e. outsourcing, TAW and fixed-term contracts) as well internal flexibility (i.e. reducing the working week and corresponding wages) in recent years. Unlike in other sectors, there is very limited informal work in the metal sector and there are, generally, no major issues with staff shortages, due to the massive reduction of labour force. As a result, employers do not have many incentives to work together with unions. Overall, the increase in employers’ prerogatives since 2011 led to far less multi-employer collective bargaining.

On the other hand, trade unions sought to reduce non-standard forms of employment contracts, as they undermine key job quality dimensions for employees on standard contracts. In the case of Dacia Renault union, the increase in the use of agency workers by suppliers led to a shift in the union approach from exclusive to inclusive vis-à-vis agency workers, and a continuation of an inclusive approach towards outsourced workers. The rationale behind unions’ approach is based on equality of work between different forms of employment as well as to increase their social legitimacy. The preferred instrument of unions is collective bargaining at different levels within an amended legal framework, closer to the pre-2011 legal provisions. Furthermore, a company level union managed to initiate a change of the TAW law in 2015, following political lobbying. Thus, legal changes are very high on unions’ agendas. In addition, traditional instruments, such as organizing and strikes have been use to improve working conditions for outsourced workers.

The implications of the above social partners’ approaches, rationales and instruments for the incidence of precarious work differ. While the unions attempt to reduce precariousness through regulating TAW and limiting the expansion of outsourcing, employers aim to expand the use of both internal and external flexibility for standard and non-standard employees. Company-level unions have been successful in improving wages via collective bargaining in profitable companies, where the unions have the capacity to mobilize workers. Similar to the retail sector, unions managed to organize workers in the IT sector in the MNCs with international support, which suggest that international unions’ collaboration is crucial to address the precarization of work in MNCs.
2.2.4 Retail

2.2.4.1 The sectors’ economic position and employment trends

Retail is one of the largest sectors in Romania, employing circa 800,000 workers (Table 17). Subsequent to a major expansion between the mid-1990s and 2008 (Chivu, 2012), the labour force was reduced by around 10 percent between 2008 and 2014 (Table 17). The 2008 recession affected mostly domestic small and medium size enterprises (SMEs), which represent approximately 99 percent of the total companies (Chivu, 2012). It was reported that circa a third of SMEs went bankrupt and their employees lost their jobs after 2008 (interview, 2015). In contrast, the number of employees working in foreign MNCs increased from circa 31,000 in 2007 to around 55,000 in 2011 (Făcăleată, 2015: 46) and over 70,000 in 2015 (Rosca, 2015). Most MNCs continued to be profitable since 2008 (Făcăleată, 2015). Amongst the 12 largest retailers (all foreign MNCs), only Metro Cash & Cash had losses between 2009 and 2011; also, 11 of them (except Selgros Cash & Cash) increased their labour force since 2008 (Făcăleată, 2015). Thus, most MNCs have continued their expansion after 2008, while SMEs have reduced their operations.

Table 17: Average employment in retail (excluding the sale of motor vehicles and motorcycles)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>848,646</td>
</tr>
<tr>
<td>2009</td>
<td>816,067</td>
</tr>
<tr>
<td>2010</td>
<td>752,216</td>
</tr>
<tr>
<td>2011</td>
<td>753,421</td>
</tr>
<tr>
<td>2012</td>
<td>758,395</td>
</tr>
<tr>
<td>2013</td>
<td>758,797</td>
</tr>
<tr>
<td>2014</td>
<td>755,995</td>
</tr>
</tbody>
</table>

Source: INS (2016)

Apart from increased dualization between SMEs and MNCs, the very low union density together with an increase in the statutory prerogatives of employers since 2011 as well as the economic downturn, make the retail sector vulnerable to various dimensions of precariousness, particularly low pay (see Table 18), irregular working time and increased workload, which will be discussed next.

Table 18: Average nominal monthly gross wage in retail (excluding the sale of motor vehicles and motorcycles)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Euro* (RON)</td>
<td>391.1 (1400)</td>
<td>356.2 (1418)</td>
<td>378.9 (1597)</td>
<td>392.2 (1678)</td>
<td>411.9 (1779)</td>
<td>397.5 (1765)</td>
<td>433 (1936)</td>
</tr>
</tbody>
</table>

Source: INS (2016); * Calculated at the exchange rate for January 1st for each year

2.2.4.2 Forms of precarious work and the quality of working conditions

Despite the 2011 legal changes making it easier for employers to use non-standard forms of contracts, there has been a decline in the share of non-standard forms of contracts (Table 19). The self-employed represent the largest share of non-standard employees in the retail sector. Approximately a third of them lost their jobs between 2008 and 2014, while the total number of employees on standard contracts has increased slightly (Table 19). Furthermore, there has been a decline in the number of part-time employees after 2008, while fixed-term contracts remained under one percent of the total labour force (Table 19). As employees on non-standard contracts were more likely to lose their jobs, the share of employees on standards contracts has increased since 2008.
Table 19: Employment in retail, including the sale of motor vehicles and motorcycles (2008-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total labour force (thousands) out of which:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent of employees</td>
<td>85.1</td>
<td>87.5</td>
<td>88.2</td>
<td>88.8</td>
<td>88.6</td>
<td>89.5</td>
<td>89.7</td>
</tr>
<tr>
<td>Percent of self-employed</td>
<td>14.9</td>
<td>12.5</td>
<td>11.8</td>
<td>11.2</td>
<td>11.4</td>
<td>10.5</td>
<td>10.3</td>
</tr>
<tr>
<td>Percent full-time (employees + self-employed)</td>
<td>97.4</td>
<td>97.8</td>
<td>97.7</td>
<td>97.3</td>
<td>97.7</td>
<td>98.0</td>
<td>98.3</td>
</tr>
<tr>
<td>Percent part-time (employees + self-employed)</td>
<td>2.5</td>
<td>2.1</td>
<td>2.3</td>
<td>2.6</td>
<td>2.2</td>
<td>1.9</td>
<td>1.6</td>
</tr>
</tbody>
</table>

Source: INS (2016)

There are two additional sets of factors that explain the decrease of non-standard forms of employment after 2008 in the retail sector. The first one is linked to labour market developments, namely labour shortages due to high emigration and high voluntary labour turnover. According to employers, it is very difficult to recruit and retain suitable workers in the retail sector, particularly in large cities where there are other job opportunities (interviews, 2015). Employers’ main concern is the high flux of personnel which is costly, particularly for companies which provide extensive training. Both employers and the union agree that low wages are one of the main reasons for the voluntary labour turnover. Although job insecurity has affected employees in the first two years of the recession, labour shortages have been the main issue for employers since 2011.

The second set of factors affecting the decline in non-standard employment forms is linked to the 2011 legal changes. Findings suggest that retail employers have used some of their new prerogatives based on the 2011 legal changes, as follows:

- First, there has been an increase in irregular working hours (Table 20). According to a union official, employees could be asked to work four hours one day, 12 hours next day and six hours the following day, depending on the needs of the firm, as long as the weekly average is 40 hours (interview, 2015). Furthermore, if employees work overtime, the new legal provisions allow employers to provide time off, while previously employers had to pay extra for overtime.

- Second, the 2011 Labour Code changes permit employers and managers to change job descriptions (fisa postului), which led to a major increase in workloads, according to one union official. This respondent suggested that in most companies the labour force has drastically declined since 2008, while the workload for employees has doubled. This claim appears to be supported by media reports indicating that the average number of employees working in each outlet of MNCs, has declined from 102 in 2008 to 43 in 2015 (Rosca, 2015). Nevertheless, the total number of employees working in MNCs has doubled between 2008 and 2015, as their total numbers of outlets have almost tripled during this period (Rosca, 2015).
Table 20: Dimensions of precariousness in the retail sector (dominant forms)

<table>
<thead>
<tr>
<th>Quality of working conditions</th>
<th>Incidence</th>
<th>Wages</th>
<th>Working time</th>
<th>Job security</th>
<th>Social security</th>
<th>Voice</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Formal employment status</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Full-time open-ended contract | Widely used in large companies (over 80%) | Circa 50% of labour force receive minimum wage set by government.  
2009-2010 - minimum wage set by sectoral collective agreement which covered all employees.  
Since 2011, no regulation at sector level, diversity across particular employers; i.e. in most large MNCs, wages are set by company level agreements; in some SMEs, minimum wage supplemented by ‘cash in hand’. | Since 2011, increase in the use of irregular working hours depending on employers’ needs (i.e. one day 3h and the next day 10h). | Job security is not an issue in retail; instead, employer concerns about the high fluctuation rate in large cities where there are other job opportunities. | In accordance with legal stipulation. | Most large retail chains unionized since mid-2000s; since 2010, focus on increasing union density in fewer firms which had relatively strong unions to get over 50% union density (the threshold required since 2011) to enable unions to negotiate collective agreements at company-level.  
The vast majority of employees are not unionized. |
| Fixed-term and part-time contracts | Generally less than 10% of the labour force; used to cover maternity leave or seasonal increases in demand. | Same as above. | Same as above; Some part-time employees work full time; employers declare them part-time to reduce the amount of taxes paid. | Relatively high In a context of staff shortages linked to high emigration and high labour turnover, part-time and fixed-term workers have opportunity to get a full-time job. | Same as above | Same as above. |
| Self-employed, family workers and no contracts* | Widely spread self-employed, non-paid family workers and workers without a legal contract working in over 90% on micro-companies with less than 9 employees. | Same as above, but more likely to receive cash in hand. | Working time arrangements depending on market demands. | Low. | Limited, due to grey or illegal practices; i.e. the employer does not register contracts with the relevant authority to avoid paying taxes. | Virtually impossible to unionize them. |

Source: interviews with a sectoral union official, an employers’ association official and a senior HR manager, which provided information primarily about large unionized companies; * Sectoral investigation did not allow to find details about the most vulnerable groups of employees in the sector
Third, the increase in the probation period makes it easier for employers to fire employees, according to an employer’s representative (interview, 2015).

As the 2011 legal framework allows employers to use irregular working hours as well as unilateral changes to the workload of employees on standard contracts, employers do not have to use non-standard contract forms to increase functional flexibility, particularly in the context of labour shortages.

Apart from the irregular working time, one of the main dimensions of precarious work in the retail sector is low wages (Table 20). The average monthly wage between 2008 and 2014 was just under 400 Euro (Table 18). Furthermore, there are big gaps between the wages of managerial and non-managerial employees; a union official indicated that a shop manager earns up to nine times more than shop assistants (interview, 2015). He estimated that between 40-50 percent of the retail labour force received the minimum wage (under 250 Euro) in 2015 (interview, 2015). Unlike in other sectors, generally non-managerial employees working in MNCs have lower wages than those working in SMEs (interviews, 2015). Nevertheless, SMEs are more likely to use illegal practices, such as ‘cash in hand’ or not registering employment contracts signed with their employees (to avoid paying taxes), placing employees at a higher risk of not getting social security payments (interviews, 2015). In contrast, foreign MNCs are generally quite apprehensive in implementing all the legal provisions and other regulations, as they are more concerned with their brand image.

Last but not least, there is limited employee voice in the retail sector (Table 20). Despite commendable efforts by the Federation of Unions for Commerce (FSC) to organize workers since 2003, less than two percent of the retail labour force is unionized. Apart from common challenges to organize workers, such as employers opposition to unions, there are three interrelated reasons which hinder the unionization of retail employees; (a) most workers are employed in SMEs, making it virtually impossible to organize them, particularly since the 2011 legislation which requires at least 15 members from the same company to set up a union; (b) there is an extremely high rate of voluntary labour turnover; (c) the limited commitment of the union federation to improve working conditions prior to 2001, made it difficult for the current union officials to unionize workers (interviews, 2015). Somewhat surprisingly, foreign MNCs are more likely to be unionized than domestic companies in the retail sector, with more than 60 percent of union members working in MNCs (Chivu, 2011). After a failed attempt to organize workers in domestic companies between 2003 and 2005, the FSC has focused on organizing workers in MNCs with international support, which will be discussed in the next two sections.

2.2.4.3 Industrial relations in the retail sector

Industrial relations institutions in the retail sector are less consolidated than those in the healthcare, construction and metal sectors. There is one union federation in the sector, the FSC, which was set up in 1990. Its membership declined from around 130,000 members at the beginning of the 1990s to under 3000 in 2001 (Chivu, 2011:7). Union membership has increased following the organization of campaigns since 2003 to approximately 12,000 members in 2015 (Table 21). Since 2011, the retail sector covers also the maintenance and repair of vehicles and motorcycles. This addition makes it even harder for the FSC to become representative, as it operates solely in the commerce sector, while the criteria for representativeness are in relation
to the entire labour force covered by the relevant NACE code. Nevertheless, FSC did not manage to unionize seven percent of the retail labour force prior to 2011. The FSC took its representativeness from being affiliated to a representative confederation before 2011, while it lost its representative status after the adoption of the SDA in 2011.

Table 21: Industrial relations in the retail sector

<table>
<thead>
<tr>
<th>Trade union</th>
<th>Federation of Unions from Commerce (Federatia Sindicatelor din Comert, FSC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Lost its representative status in 2011, due to legal changes to sectoral representativeness criteria</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Trade union density in the sector</th>
<th>Approximately 12,000 mostly in MNCs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Representative company-level unions (over 50 percent density) solely in Carrefour, Metro, Real and Selgros since 2011</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employers’ association</th>
<th>(1) Federation of Employers from Commerce (Federatia Patronală din Comert, FPC); set up in 2006; has around 120 members (mainly domestic medium-sized companies) employing around 10,000 employees (Chivu, 2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(2) Employers’ Federation of Trade Networks (Federatia Patronala a Rețelelor de Comert, FPRC); set up in 2013, consisting of 19 members employing circa 100,000 employees; members are all large companies, most of them subsidiaries of MNCs (Interview, employer association official, 2015).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Collective bargaining</th>
<th>2006-2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Dominant level</td>
<td>Sectoral level collective agreements covering all employees + circa 20-25 company level collective agreements;</td>
</tr>
<tr>
<td></td>
<td>Since 2011</td>
</tr>
<tr>
<td></td>
<td>Company/establishment level in few large companies (i.e. Carrefour, Metro, Real and Selgros)</td>
</tr>
</tbody>
</table>

| Other key developments | - Unionization of foreign MNC since 2006 |
|                       | - Since 2011, FSC focused on consolidation of membership in MNC that had the highest union density |
|                       | - In 2015, union density was over 50 percent in Carrefour, Metro, Real and Selgros |
|                       | - Carrefour Romania: change from adversarial to workplace partnership with the union in 2010 |

Source: Chivu (2011); interviews in 2015 with representatives of FSC and FPRC

There were similar developments on the employers’ side. The FPC was set up in 2006 and had around 120 members, mainly domestic medium-sized companies employing approximately 10,000 employees (Chivu, 2011). Similar to the union federation, the FPC took its representativeness from being affiliated to a representative employers’ confederation (UGIR-1903), as its members employed less than two percent of the labour force. The FPC negotiated on behalf of employers sectoral collective agreements between 2006 and 2010. These agreements covered all employees in the sector. As several MNCs were unhappy with the provisions of the 2010 sectoral collective agreement, a number of them decided to set up an alternative employers’ association in 2013, named the FPRC (Table 21). Their organization was facilitated by the fact that those MNCs were already organized in a trade association,
namely the Association of Commerce Networks in Romania. In 2015, the FPRC had 19 members, mostly large MNCs, employing circa 100,000 employees (interview, 2015). There is limited cooperation between the two employers’ federations.

The relations between the two employers’ federations and the union federation are amiable. All sectoral collective agreements negotiated between 2006 and 2010 were concluded without any protest actions. Also, a senior official indicated the newly created employers’ federation, the FPRC, aims to become representative to negotiate sectoral collective agreements (interview, 2015). Interestingly, both respondents representing retail employers mentioned the importance of their personal relationship with the union leader of the FSC. They considered it crucial in maintaining very good relationships with the union federation as well as with company-level unions. Nevertheless, not all retail chains are willing to deal with unions. The FSC revealed that some large MNCs are openly anti-unions, such as Auchan, Kaufland and Lidl. Consequently, most workers in both foreign MNCs, as well as domestic companies are not unionized.

2.2.4.4 Trade union and employers’ actions, best practices, examples

There have been three main types of actions used by both social partners to address precarious work in the retail sector since 2008. First, unlike in other sectors, organizing has been the main response of social partners to address precarious work in the retail sector since 2008. While the FSC started its organizing campaign before 2008, the foreign MNCs set up a new employers’ association in 2013, which was triggered by the union’s ability to negotiate with the existing employers’ association and this improved working conditions in the 2010 sectoral collective agreement (interview, 2015). Second, the social partners have been involved in collective bargaining. Similar to the other sectors, there was a decentralization of collective bargaining from sectoral level (between 2006 and 2010) to company level after 2011, as both social partners lost their representative status following the 2011 legal changes. Finally, social partners sought to improve compliance with the existing legislation and would like to change the SDA to allow them to negotiate sectoral agreements covering all companies to reduce ‘unfair competition’. Both partners agree that the lack of national and sectoral collective agreements have led to an increase in the number of informal employment practices.

Trade unions are primarily concerned with addressing low wages and irregular working time for employees on standard employment contracts. Their main strategy is to reduce work precariousness via collective bargaining for employees on standard employment contracts, but in order to be eligible to bargain collectively, they had to organize workers. The organizing campaigns were triggered by the fact that their own survival was at stake in early 2001. A senior official stated that ‘we had to increase the number of members to support our activities and to ensure our survival’, as the federation had only 1500 members in 2001. The FSC had huge debts in the early 2000s, including 100,000 Euro borrowed from a Danish union in early 1990s. Although the declared purpose of the loan was to be used to organize workers, it appears that it was primarily utilized to buy an office in a central location in Bucharest (interview, 2015). As the FSC did not manage to increase its membership during the 1990s, it was unable to pay back this loan. In this critical context, the FCS changed its leadership in 2001 during an extraordinary congress. The new leadership team sold the FSC’s office in the city center and bought a far cheaper office on the
outskirts of the city. They planned to use the money received from selling the central office to pay back the loan and to start an organizing campaign.

The FSC’s organizing campaign took place in three stages. In the first phase, which took place between 2003 and 2005, the FSC aimed to develop 20 territorial (county) organizations to create a critical mass of union structures and activists. The territorial organizations were expected to recruit members in the companies operating in the area. In a context of high labour turnover (often linked to emigration), their initial attempts to organize retail workers were not successful, as many recruited workers left these organizations, including those who were trained to recruit others. Also, it was suggested that the new members were afraid to be open about their union membership, as they feared that they would lose their jobs (interview, 2015). Although none of the new union structures survived, the FSC leadership team trained around 500 union activists during the first phase, some of whom subsequently helped in organizing workers. Furthermore, the Danish unions decided not to take back the loan given to the FSC, when they have seen evidence that the new leadership was using their financial resources to organize workers. Despite a lack of success in organizing workers, this first stage played a key role in preparing and implementing the second phase of organizing.

Following the failure of setting up territorial structures, the FSC decided to focus on organizing workers in MNCs between 2006 and 2009. As the FSC is affiliated to the UNI Global, the leadership team asked other affiliates for advice and support in organising workers in MNCs. First, the German union, Ver.di provided support in the form of training and access to relevant senior managers in German companies operating in Romania. This support has helped to unionize workers in the German companies, Metro, Real and Selgros. By 2008, up to a third of the labour force was unionized in these three MNCs and unions successfully negotiated company-level collective agreements which covered all employees.

Second, the FSC got the support of UNI Global to organise workers in Carrefour. The request for UNI Global union support for trade union recognition came after a local initiative to organize workers, resulted in the harassment of the union members and their leader (interviews, 2015). UNI Global put pressure on the Carrefour management team, to allow the FSC to unionize workers in their Romanian subsidiaries, as freedom of association was part of their International Framework Agreement. Following discussions between a senior member of the EWC and senior human resource managers, a decision was taken to allow unionization and to reinstate company-level union activists who were fired. Finally, the FSC managed to organize workers in other MNCs, such as Billa and Penny, but union density in those MNCs was rather low by the end of 2009.

The third phase of organizing was primarily triggered by the 2011 legal changes. The FSC took the decision to make two main changes at their annual congress in 2011. First, it changed its affiliation from CNSLR-Fratia (as their leader was associated with corruption allegations) to Cartel Alfa Confederation. Second, the FSC decided to refocus its organizing efforts in MNCs that have over 20 percent union density to get ‘real representativeness’ meaning over 50 percent union density (interview, union official, 2015). Apart from causing the loss of FSC’s representative status, the SDA requires company-level unions to have at least 50 percent union density to be representative at a company level. The FSC’s consolidation efforts were successful in
four MNCs; by 2012, more than 50 percent of the labour force was unionized in Carrefour, Selgros, Metro and Real, enabling company-level unions with the support of the FSC to negotiate collective agreements. The FSC has been rather exceptional in its organizing efforts with international support.

The main purpose of organizing workers has been to improve their working conditions via collective bargaining. Between 2006 and 2010, the FSC and FPC have signed two main sectoral collective agreements one in 2007 and the other one in 2011 (both federations had representative status by being affiliated to representative confederations). The first collective agreement for 2007-2010 regulated substantive aspects, such as minimum wages for the retail sector (50 RON higher than the national minimum wage in 2008) and additional benefits in the case of retirement or death (a lump sum of three months’ salary) (Chivu, 2011: 11-12). In addition, the procedural aspects indicated that unions have to be consulted regarding the allocation of social funds (i.e. childcare, holiday funds, etc.) and that union representatives elected to be officials of the federation have to be paid by their employer (not the union). The second collective agreement was concluded in 2010. While it did not change the provisions of the basic wage, it improved a great deal the provisions concerning work during the week-end and bank holidays as well as it introduced bonuses for Christmas (500 RON) and Easter (at least 100 RON). Furthermore, working time provisions were improved for workers; the collective agreement stipulated that employees should have at least one week-end free per month and at least 18 week-ends free per year; also, the wage rate should be double for overtime work, which needs to be requested in writing by the employer (Chivu, 2011: 13).

Despite the recession, the union managed to improve working conditions for retail workers, before the 2011 legal changes.

The 2010 collective agreement has contributed to the organization of foreign MNCs into an employers’ association. MNCs were unhappy with the provisions of the 2010 sectoral agreement, particularly those concerning working time. They contested the legitimacy of the FPC employers’ federation, as it represented less than one percent of the retail labour force. The large retail chains decided to form a new employers association in 2013 to make sure that the other employers’ association (FPC) did not sign new sectoral collective agreements without prior consultation with foreign MNCs. A respondent stated they wanted to avoid ‘having other surprises’ such as the 2010 collective agreement. They also want to have a say in the sectoral tripartite and bipartite fora and to get information about the government strategy in relation to the retail sector. Interestingly, both the FPC and the newly created employers’ association would prefer to have an *erga omnes* sectoral collective agreement, to encourage fair competition amongst retail firms, respectively to discourage illegal practices, such as ‘cash in hand’ payments or lack of employment contracts (interviews, 2015; Chivu, 2011). The MNCs perceive that there is unfair competition, as some domestic firms do not implement the existing regulations.

Despite the fact that the social partners prefer to a have an *erga omnes* sectoral collective agreement, the government declared the 2010 sectoral collective agreement invalid in 2011. The union official indicated that this agreement had a provision specifying that it would be automatically extended until a new collective agreement was signed, if none of the parties that signed it declared it null within 30 days before it expired. As the signatory parties did not declare it null, the agreement should have
been valid in 2015. Similar to other sectors, it has not been applied since the adoption of SDA in 2011 (Trif, 2016b).

Nevertheless, most provisions of the 2010 sectoral agreement are included in the company level collective agreements in large companies. In 2010, it was estimated that there were around 25 company collective agreements (Chivu, 2011: 10). The major development in company collective bargaining since 2008 was the signature of annual collective agreements in Carrefour, which is one of the largest retail chains in Romania, having circa 8000 employees. The first collective agreement in Carrefour concluded in 2010, included provisions for double wages for Sundays and bank holiday work as well it indicated that all workers should have at least 18 Sundays free per year. While Carrefour’s collective agreement has kept all the provisions of the 2010 sectoral agreement after the 2011 legal changes, some companies have rather perfunctory collective agreements signed by elected representatives selected by the managers. It was reported that Labour inspectors are less likely to inspect the enforcement of the labour standards in companies that have a collective agreement (interview, 2015). Thus, collective bargaining has been the main instrument to improve working conditions in MNCs since 2008, while the quality of the company level collective agreements may vary greatly.

Overall, best practices in the retail sector refer to inter-related actions to improve working conditions, particularly wages and working time for employees on standard contracts. The union federation, FSC, organized workers in MNCs with international support, which in turn, allowed them to negotiate company-level collective agreements. Furthermore, the FSC managed to include the provisions of the most favourable company level collective agreement into the sectoral collective agreements in 2010 (interview, 2015). Moreover, after the sectoral collective agreement was declared null by the government in 2011, unions in some large companies managed to keep those provisions in their new collective agreements negotiated after 2011, as the recession did not affect greatly the large foreign retail chains.

In addition, the FSC was instrumental in developing a workplace partnership between the management and the company-level union in Carrefour. The regular communication between the management and the union, particularly in relation to redundancies in the first years of the recession led to an increase in trust between the two social partners. By 2012, the two parties decided to develop formal structures to support regular communication and consultation at different levels; (a) in each shop, the management and union representatives meet every month to discuss issues and challenges that they face; (b) the general secretary of the company-level union and an FSC official also meet every month with the HR management in the headquarters to discuss the issues reported from the shops; and (c) twice a year, the general secretary of the FSC meets the Director General of Carrefour Romania. A representative of the company interviewed suggested that this workplace partnership is very beneficial for the organization, as stated below:

We rely on union’s support for the implementation of work organization; they have a critical eye, which is often beneficial for us to improve the service provided; …there are still some conflictual situations with the union, but this partnership has increased a great deal the trust of employees in the organization; it has really helped us to create a team. (Interview, 2015)
The FSC’s leadership change in 2001 has helped the union to increase its external and internal legitimacy. According to senior managers in Carrefour and Selgros, the FSC union leader has played a pivotal role in developing trust in unions and genuine collective bargaining in their companies and in the retail sector. The strengthening of FSC contributed to the creation of a new employers’ association in the retail sector, which is quite supportive of sectoral collective bargaining, as an instrument to reduce informal employment practices.

2.2.4.5 Concluding remarks

The retail sector was affected by the crisis differently than sectors directly integrated into global markets. Approximately 100,000 employees lost their jobs between 2008 and 2014 (Table 17), but there were significant differences between developments in SMEs and MNCs. Most SMEs laid off employees, while most foreign MNCs have increased their labour force and their revenues since 2008 by opening new shops (Făcăleatăă, 2015). Nevertheless, MNCs also laid off around a third of their labour force in 2009 and 2010; despite reducing the number of employees working in each shop, their total labour force grew due to an increase in the number of shops. Although some of the laid off employees found jobs in the new shops, many of them emigrated, which in turn, led to labour shortages. The massive job losses for self-employed coupled with labour shortages led to an increase in the share of employees on standard contracts since 2008, and respectively, a decline in non-standard contracts.

Although job security has not been an issue since 2010, precariousness in the retail sector lies in low wages coupled with increased workloads and irregular working time permitted by the new provisions of the legal framework. Those precarious working conditions contribute to a very high voluntary labour turnover, which is costly for employers. Furthermore, the legal changes led to the invalidation of the sectoral collective agreement by the government in 2011, which makes it easier for some employers to use illegal employment practices. Those informal practices, such as payments of cash in hand, on the one hand, affect employees, particularly in terms of lack of social benefits, including access to public healthcare, while on the other hand, they lead to unfair competition among employers. Finally, employees working in over 90 percent of retails firms which have less than 15 employees lost their right to be unionized following the 2011 legal changes. Despite the unfavorable legal context, the number of unionized workers in the sector has increased since 2008, due to the FSC’s efforts to organize workers in MNCs.

The union’s approach to precarious workers has been inclusive, particularly by negotiating erga omnes collective agreements to cover the entire labour force, except self-employed. Employers’ also take an inclusive approach and do not discriminate between employees based on the type of contract in their human resource policies. The rationale behind trade union behaviour lies in the principle of equality for all kinds of workers, and securing decent working conditions for the majority of employees who are low paid. Also, the union managed to ensure that all employees have at least a week-end off per month and get additional pay for work on Sundays and public holidays. In contrast, employers’ actions are informed by economic rationales and the need to reduce voluntary labour turnover in a context of labour shortages. The preferred instrument for both unions and employers is collective bargaining. Nevertheless, both agree that the SDA legislation needs to be amended to
allow them to negotiate *erga omnes* collective agreements to take wages out of the competition and reduce illegal practices. Furthermore, both social partners seek legislative compliance at a company level, but there have been no particular joint actions to address this issue.

**Implications** of the above approaches, rationales and instruments for the future of precarious work have both similarities and differences from the unions’ and the employers’ perspective. While employers are happy with the increase of their prerogatives provided by the 2011 legal changes, similar to unions, most employers want an improvement of the enforcement of the legislation to reduce illegal practices, which would reduce the most precarious work forms. Also, both social partners agree that the reduction of illegal practices would be more likely if there would be a collective agreement covering the entire labour force. Although this is somewhat surprising, the findings suggest that employers consider that a sectoral collective agreement could also reduce the high labour turnover, which in turn, may be less costly than providing slightly better working conditions, in a context of labour shortages. Nevertheless, major legal changes to the SDA would be required to make this possible, which seem unlikely in the near future. It is more likely that the unions will continue their organizing efforts in the large foreign retail chains, which in turn, will make it possible to conclude collective agreements at company level covering all employees. Nevertheless, the anti-union stance of some of the largest retail chains, such as Kaufland and Lidl, make it virtually impossible to organize workers in those organizations, unless there is some form of external pressure (i.e. consumer boycott or protests that would affect their image) to compel them to allow workers’ unionization for an economic rationale.

### 2.2.5 Temporary agency work

#### 2.2.5.1 The sectors’ economic position and employment trends

The importance of temporary agency work has grown in recent years. Eurostat data shows a massive increase in the number of agency workers, agencies and revenue in the TAW sector between 2008 and 2014; more specifically, the number of employees increased seven times, the number of agencies four times and the sectoral revenue was 10 times higher in 2014 compared to 2008 (Table 22). The 2011 legal provisions allowing employers to pay agency workers lower wages than employees on standard contracts in the user company as well as the uncertainty associated with crisis led to a large growth in the use of agency workers to reduce labour costs (economic rationale) and use a flexible labour force contingent on market demands (organizational rationale) (interviews, 2015; Guga, 2016). A representative of employers who was also a senior manager in a large TAW firm indicated that “*in 2009, companies were afraid to hire staff on their payroll and they come to us. In 2008, we’ve leased circa 3000 agency workers; in 2009, 3500 and the upward trend continued; we’ve leased circa 6000 employees in 2014*” (interview, 2015). German, US and French MNCs operating in the automotive sector, call centers, shared services (i.e. IT, HR and accounting) and the hospitality sector are the main users of agency workers (interviews, 2015). Although there has been a massive growth, the Eurostat data suggests that the share of agency workers is well under one percent of the total labour force.
Nevertheless, it appears that the size of the TAW sector is underestimated by the statistical data (Guga, 2016). While the Eurostat data indicated that there were under 27,000 agency workers in 2014 (Table 22), the Labour inspectorate reported that there were over 80,000 employees working via agencies in 2014 (Guga, 2016: 27). The representative of the main employers’ association, ARAMT, revealed that solely, members of this employers’ association have leased 55,000 workers to user companies in 2014. The respondent estimated that overall, circa 250,000 employees worked via agencies, out of which approximately 150,000 worked in Romania, while 100,000 were posted abroad (this number is confirmed by media reports, such as Hotnews.ro, 2014). Hence, it is likely that the number of agency workers is considerably higher than the data reported by Eurostat.

It is possible that some agency workers may be registered in the sector of user companies. On the one hand, agencies are generally considered a supplier for the other economic sectors, not a sector on its own (Chivu, 2010). On the other hand, apart from ‘leasing’ personnel, some large TAWs employ technically outsourced employees by the user companies, who continue to work solely for the same user companies, while the agency deals with all the HR aspects; hence, they may remain registered for the sector of the user companies. Thus, TAW sector has a complex and multifaceted structure, which is likely to contribute to difficulties in terms of reporting statistical data, while the sector is rapidly developing in Romania.

Table 22: Economic and employment trends in TAW sector (2008-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of employees in full-time equivalents units</td>
<td>3,810</td>
<td>3,720</td>
<td>4,812</td>
<td>12,271</td>
<td>16,205</td>
<td>19,666</td>
<td>26,834</td>
</tr>
<tr>
<td>Number of enterprises</td>
<td>133</td>
<td>163</td>
<td>175</td>
<td>199</td>
<td>273</td>
<td>409</td>
<td>562</td>
</tr>
<tr>
<td>Turnover (in million Euro) (sectoral revenue)</td>
<td>36.6</td>
<td>47.9</td>
<td>68.7</td>
<td>152</td>
<td>187.5</td>
<td>268.5</td>
<td>366.5</td>
</tr>
</tbody>
</table>

Source: Eurostat (2016) [sbs_na_la_se_r2]

The largest TAW firms reported that their workers earned usually between 1000 and 2400 RON in 2014 on average per month (Mihai, 2014). The largest TAW companies operating in Romania are Adecco, Lugera and Makler, Manpower Group, Trenkwalder and Professional (Chivu, 2010; interview, 2015). Agency workers in the largest TAW, Adecco (which employs circa 5000 employees working mostly in the automotive sector), earned on average 1153 RON net per month; employees of Manpower Group and Trendwalder earned on average circa 1750 RON net per month (Mihai, 2014). Nevertheless, there is great variation in the income of agency workers, depending primarily on wages in the user companies, in a context of no company or multi-employer collective agreements in the TAW sector. Also, the level of income depends on their job. Surprisingly, TAWs are supplying staff ranging from low-skilled workers to highly-skilled employees, including very senior managers. It was revealed that some MNCs employed senior managers and lawyers via an agency to manage the process of acquiring a company or setting up a new subsidiary in

---

9 ‘Leasing’ (the English word) is the term used in Romanian for the process of supplying agency workers to user companies.
Romania. Some of those highly-skilled employees have subsequently become part of the senior management team, including managing directors of these subsidiaries. Overall, wage levels for agency workers vary greatly amongst agency workers, more than in other sectors that are more homogenous and/or have joint regulations between unions and employers.

2.2.5.2 Forms of precarious work

The main dimensions of precariousness for agency workers are income and job insecurity, due to the temporary character of their work (Table 23). TAW firms have up to five percent of employees on standard-open ended contracts, employed mainly to provide administrative support for dealing with the temporary employees. Unlike in other sectors, over 95 percent of TAW employees have fixed-term contracts (see Table 23); it was reported that circa 70-80 percent of leased employees work full-time; in one of the large TAWs, full-time agency workers get to work generally for 10 months per year; the accumulated breaks between contracts are circa one month, as agency workers get paid annual leave 21 days per year pro rata (interview, 2015).

The duration of contracts between TAWs and user companies vary greatly from one day to several months. The most common duration of temporary contracts is a couple of months (interviews, 2015). A union respondent reported that agency workers in the call-centers have contracts of up to three months, while some companies, such as Deutsche Telekom have shorter contracts (between one and three weeks); she indicated that ‘agency workers don’t know what will happen next, where will they work’ (interview, 2015). One of the key issues that leads to additional uncertainty, is the fact that circa 20 percent of TAW contracts with the user company end prematurely, due to market volatility (interview, employers’ representative, 2015); the user companies, which are often intermediaries in the supply chain, also lose their contracts prematurely with their beneficiaries. In the telecommunication sector, agency workers are often employed by a third layer of sub-contractors (interview, union official, 2015). According to an employer,

If a subcontractor [the user company] loses its contract with the beneficiary, I have to terminate my contract for the leased staff ahead of due time, but I cannot obey the law and give employees compensation in this case, because my commission is too low to cover such expenses; my client [the user company] cannot either; I’m at the brink of illegality. …According to the 2015 law, which introduced equal treatment between employees on standard contracts and leased employees, I should provide agency workers 10 months wages as compensation in the case of lay-offs; this is not feasible for leased employees. (Interview, 2015)

While TAWs seek to ensure a degree of certainty by finding work for their temporary employees, there is high uncertainty in relation to the duration of each contract dependent on user companies, which leads to both job and income insecurity.
### Table 23 Dimensions of precariousness in the temporary agency work sector (dominant forms)

<table>
<thead>
<tr>
<th>Quality of working conditions</th>
<th>Incidence</th>
<th>Wages</th>
<th>Working time</th>
<th>Job security</th>
<th>Social security</th>
<th>Voice</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Full-time open-ended contract</strong></td>
<td>Under 5 percent, employed primarily to provide administrative support for dealing with temporary contracts.</td>
<td>No regulation at the sector level. Minimum wages set by law.</td>
<td>Based on legal stipulations.</td>
<td>High, in accordance with legal stipulation.</td>
<td>In accordance with legal stipulation.</td>
<td>Low, not unionized. Large employers organized in an association.</td>
</tr>
</tbody>
</table>
| **Fixed-term contracts** | Widely used, in various forms primarily by German, US and French multinationals in the following sectors: automotive, call centers, shared services (i.e. IT, HR, accounting), warehouses and hospitality. Main forms (up to 80% full-time): a) ‘Leasing employees’ in Romania and abroad – workers employed by an agency are contributing to a specific project or working specific tasks for a limited period of time (when there is a surge in demand) in a user company. - increasing numbers since 2008 (i.e. their number has doubled between 2008 and 2015 in one of the largest TAWs). b) Outsourcing
  - In Romania Agencies employ former employees of a user company who continue to do the same work in the user company, while the agency is not legally obliged to provide the same terms and conditions of employment. The agency deals with all HR aspects.
  - Abroad (circa 100,000) | Contingent on the wages of regular employees in the user company. Since 2015, they should have the same pay and other conditions as regular employees. Between 2011 and 2014, lower or similar to regular employees in the user company. i.e. Agency workers in one of the largest automobile companies, have the same base pay with regular employees, but do not receive other benefits representing circa 30% of the income (bonuses, meal tickets etc). Outsourced agency workers may have lower wages than the user company workers. | Same as above; overtime and night shifts paid equally to regular employees in the user company. Technically, the legal provisions limit the duration and the number of consecutive contracts, but in practice it is easy to find a ‘legal’ solution to get around it (i.e. the employer of an agency may have more than a company). | Low job security; flexibility in hiring and firing is one of the highly appreciated advantages of temporary agency workers. Circa 20% of fixed-term contracts end before the agreed period in the contract and there is no compensation for agency workers. | Paid during the period of employment according to legal stipulations. | Low, generally not unionized, because of inherent fluctuation of TAWs across different sectors/companies. In 2015, trade union initiatives on behalf of TAWs led to changes in legislation to have equal terms and conditions of employment with the user employees, but rather easy not to implement it (i.e. by specifying slightly different tasks in the job description than those performed by regular employees; by outsourcing rather than leasing employees). |

Source: Interviews with an employer (who was also an official of the TAW employers’ association) and three trade union officials (IT sector, telecommunication and one national level official).
Despite a successful attempt to improve the legal regulation for agency workers in 2015, their working conditions still have elements of precariousness on several dimensions (Table 23). It was reported by several union officials that the 2015 legal change had very limited impact on agency workers’ wages, as it is easy to get around it. On the one hand, the management can change the job category employing agency workers at a lower level than employees doing a similar job in the beneficiary company to give agency workers lower wages. On the other hand, the beneficiary company can get an outsourcing contract with an agency, which is not covered by the 2015 legal changes. A user company may outsource the operations and responsibilities of a specific business process to TAWs, such as HR, payroll and customer support (business process outsourcing), often with the purpose of cutting labour costs. Moreover, a user company may outsource to TAWs a business process with employees who carry on working for TAWs in worse working conditions, while, in practice, they continue to work for the user companies on their premises.

Both unions’ and employers’ indicated that there are issues with the law enforcement in relation to agency workers. According to a national union official, the 2015 law

…requiring equal work for equal pay is not applied; …it led to petty modifications of the labour law for agency and outsourced workers. 

….Applying this law would mean that agency and outsourced workers would cost more than standard employees, as the beneficiary company would also have to pay a fee for the agency. (Interview, 2015)

According to employers’ representative, some legal regulations are unclear and open to interpretation. It was reported that some TAW companies create ‘sister’ companies to enable them to transfer workers from one agency to another one (or ‘exchange’ of agency workers with other TAWs) to get around the legal provisions concerning the maximum duration of a contract (interview, 2015). By and large, the user companies prefer to work with the same agency employees, as they have to train them only once (interview, 2015). Longer contracts may decrease uncertainty for both the user company and agency workers.

Surprisingly, the employers’ representative indicated that she was happy with the 2015 legal change concerning wages. She recommends user companies to pay agency workers more than those in the user companies due to income uncertainty. Circa 10 percent of agency workers receive higher wages than employees on standard contracts, while most ‘leased’ and ‘outsourced’ workers have similar or lower wages (interview, 2015). Agency workers receive the same overtime and night shifts premium as standard workers, while they do not get bonuses linked to users’ company performances, as discussed in the metal sector section. Agency workers are more likely than standard employees to work unsociable hours, such as night shifts and week-ends, for which the payments were reduced by the 2011 legal changes. For instance, employees in call-centers used to get double payment for week-end work prior to 2011, which this is no longer the case (interview, union official, telecommunication sector, 2015). As most agency workers are employed to reduce labour costs for user companies, by and large, they earn less than those on standard contracts in the user companies.

In addition to job and income insecurity, the temporary character of agency work affects the social benefits and workers’ voice. Agency workers have to pay the same
social benefits as employees on standard contracts, but their overall contribution to pensions and other social benefits is lower due to their discontinuous employment. Moreover, the posted workers abroad are generally paid the minimum wage in Romania, while they receive a daily allowance abroad of up to €100 which is tax-free.\textsuperscript{10} Their pensions and social benefits are paid in relation to minimum wage, which results in low pensions and social benefits. Last but not least, the temporary nature of work and regular changes of user companies makes it very difficult to unionize agency workers. As a result, agency workers are generally not unionized.

\textbf{2.2.5.3 Industrial relations in the TAW sector}

Unlike in the other sectors investigated, there are virtually no industrial relations institutions at the sectoral level, as TAW is considered a supplier to other sectors. On the employers’ side, many large TAWs are members of the Romanian Association of Temporary Work Agents (ARAMNT), which was set up in 2010. It was reported that its affiliated members employed circa 55,000 agency workers in 2014 (interview, 2015). The ARAMNT is primarily a trade association seeking to promote the development of Romanian temporary work agents. Its main activity is lobbying the government in relation to the legislation concerning the licensing of TAW and labour laws (interview, 2015). The association has close links with the American Chamber of Commerce.

On the trade union side, there is no federation in the TAW sector. There have been some attempts by unions to organize agency workers in the user companies, particularly in call-centers, but the 2011 law does not allow company-level unions to have members from different NACE sectors. Outsourced workers employed by agencies, who may be registered in the same sector with the user company, are extremely difficult to organize because of the temporary character of their work and fears of job insecurity. It was reported by a union official working in telecommunication sector that ‘\textit{In 2012 after a trade union organized workers in a call-center in Ploiesti, the employer closed it down and relocated it to Bucharest. 35 employees lost their jobs.’} The telecommunication union federation has adopted a more flexible approach to support employees on non-standard forms of contracts, including representing non-unionized employees in the case of an individual dispute for a small fee. Finally, some company-level unions have an inclusive approach and negotiate on behalf of agency workers, although they are not unionized (i.e. the automotive, IT and telecommunication sectors). Unions strive to make sure that non-agency workers’ wages do not undermine wages for employees on standard contracts (interviews, 2015). Summing up, industrial relations institutions in the TAW sector are yet to be developed, although there is an employers’ association.

\textbf{2.2.5.4 Trade union and employers’ actions, best practices, examples}

The legislation is the main instrument used by both social partners to address the working conditions of agency workers. Despite limited developments at the sectoral level, representatives of unions and employers have been involved in changing the labour legislation affecting TAWs. On the employers’ side, the American Chamber of Commerce has had an important contribution to the labour market de-regulation in

\textsuperscript{10} There have been disputes between TAWs and the National Agency for Fiscal Administration concerning the legality of this practice.
First, the 2011 law doubled the length of a temporary assignment from 18 months to 36 months (Guga, 2016: 26). Second, it made it possible to pay agency workers less than regular workers in the user company until 2015, when this provision was changed. Third, it undermined other individual and collective rights of regular employees (Trif, 2013), particularly collective bargaining, which makes it far more difficult for unions to set minimum standards for agency workers. The 2011 legal changes made it easier for companies to employ agency workers.

By and large, employers are happy with the current labour laws. TAWs supported the 2015 provision of equal pay for agency workers with regular employees, but they would like to amend the law to make it more explicit that TAWs should not pay severance payments (interview, 2015). Also, it was reported that ARAMNT successfully opposed proposals by union confederations to legally oblige TAWs to employ agency workers on standard contracts or to pay agency workers 75 percent of their wage when they do not work at a user company. According to a union leader ‘Labour legislation in Romania is a paradise for TAWs, as relevant European Directives are brutally breached. A company can fire its entire staff and replace it with temporary workers employed via TAWs either as outsourced employees or by leasing personnel.’” (interview, national confederation union official, 2015). Hence, employers have achieved quite permissive labour laws.

In addition, TAW employers are lobbying for simplifying the procedures for licensing and registration of service contracts. These legal provisions are considered cumbersome and sometimes unclear (interview, 2015). The National Agency for Fiscal Administration (ANAF) has closed down several TAWs, including a very large agency for the incorrect interpretation of legal regulations in relation to posted workers abroad. On the one hand, TAWs argue that the daily subsistence provided to posted workers is in line with the law. On the other hand, ANAF argues that many TAWs abuse the legal system by paying minimum wages for workers in Romania, while disguising wages into large daily subsistence payment (on average €1500 per month) to avoid paying taxes and social contributions on the real wages (Hotnews.ro, 2014). In addition, employers would like to be able to supply agency workers in Romania without prior registration of their contracts with the relevant state agency, in specific cases; i.e. when user companies need agency workers to replace employees who cannot provide advance notice concerning their absence from work, due to unforeseen circumstances (i.e. an accident).

Although TAW employers wish to expand the use of temporary agency workers, large Romanian temporary work agencies also act sometimes as regular recruitment agencies. It was reported that one of the largest TAW started as a regular recruitment agency and developed into a TAW since mid-2000s, due to increased market demand for agency workers, particularly by MNCs originating in the USA (interview, 2015). The agency kept its regular recruitment department; it looks for regular jobs for agency workers who wish to get a permanent contract, particularly those who are considered to have high potential (interview, 2015). Unions reported that very few (circa one percent of) agency workers get full time contracts with the user company (interviews, 2015). Nevertheless, providing both temporary and regular contracts for job seekers could be considered a best practice for TAWs.

In contrast to employers, trade unions generally want to reduce the number of agency workers. Unions seek to provide equal pay for equal work independent of the type of
employment contract to discourage user companies to employ agency workers to reduce labour costs. One important step in this direction was made through the 2015 legal change requiring equal pay for agency and regular employees working with a user company, but this law is difficult to implement. In addition, strong company level unions seek to negotiate via collective bargaining special provisions for agency (and other temporary) workers, such as equal access to bonuses linked to organizational performance in the user company. Moreover, a senior official of the SITT union revealed in large IT companies, they strive to eliminate temporary employment contracts under six months as well as to oblige employers to inform workers a month in advance whether their contract would be renewed (interview, 2015). Furthermore, the employers’ representative indicated that some strong company level unions, such as the one in Dacia Renault, would like to eliminate agency work. Unions seek to improve working conditions for agency workers by making it mandatory to provide the same working conditions for agency and user company workers through legal changes and company level collective bargaining.

2.2.5.5 Concluding remarks

Although TAWs have a relatively low share of employment in Romania, its importance increased a great deal since 2009, particularly between 2011 and 2015, when the labour laws were considered a ‘paradise’ for employers. It is concentrated in important sectors of the economy, in both manufacturing (i.e. automotive) and services (i.e. IT and call-centers). Apart from job instability, the main dimensions of precariousness for agency workers are in relation to income level, social benefits and limited (if any) voice. In addition, agencies often substitute most part of wages through daily subsistence allowance which is exempt from tax and social security contributions for posted workers abroad, which affect particularly their pensions. Nevertheless, it is possible that some workers may prefer to work via an agency to get more diverse work and develop a wider range of skills that could enable them to get a more desirable regular job. Also, it was interesting that agencies are able to provide work for circa 90 percent of the time for agency workers that wish to work full-time, according to an employers’ representative (interview, 2015).

The increased use of agency workers led to divergent responses from trade unions and employers’ representatives. First, the approach of employers is to increase TAW due to economic (reduce labour costs) and organizational rationales (functional flexibility contingent on market demands). In contrast, unions seek to reduce the use of agency workers, by improving their working conditions. The rationale behind trade union action is getting equality in the quality of work between different forms of employment to make sure that agency workers do not undermine the working conditions for the regular employees.

The main instrument used by both social partners to address agency work is lobbying for legislative changes. Employers have been successful in deregulating the labour market in 2011, while the unions were successful in reverting to equal pay for equal work between leased and regular employees in 2015. However, there are issues with the implementation of labour laws that affect TAW and their workers. It was interesting that the representative for employers was happy with the legal provision concerning equal wages for agency and regular employees, which was the main aspect that both agreed on. In addition, company level unions have tried to improve working conditions via user company collective bargaining.
Implications of union and employer approaches to addressing precarious work do suggest a divergence with unions seeking to reduce agency work and employers seeking to expand it, as it can be used as a means to reduce labour costs. Unlike in other sectors, there are no sectoral union federations and no sectoral fora to address TAW issues, resulting in a lack of regular dialogue between unions and the employers’ representatives. If sectoral institutions were developed, the social partners might find joint solutions on how to deal with circa 20 percent of service contracts between TAWs and user companies which are terminated prematurely often affecting several layers in the outsourcing chain. While it appears that the bottom layer suffers the most negative consequences associated with unpredictable circumstances, including agency workers, the social partners could learn from developments in the construction sector, where the social partners developed a type of insurance fund to deal with unpredictable circumstances, to which all stakeholders contribute to. Nevertheless, it would be very difficult to develop and consolidate sectoral industrial relations institutions, in a context of very low (if any) union membership. Interestingly, despite being dominated by MNCs, TAWs have created an employers’ association aimed at furthering their members’ interest vis-à-vis government.

3. Comparative analysis and conclusions

This study investigates the role of industrial relations in addressing the precarious work in Romania since 2008. It focuses on the incidence and forms of precarious employment and strategies of the social partners - trade unions and employers’ associations – in addressing precarious work in five sectors, namely construction, healthcare, metal, retail and TAW. This is the first empirical study which examines primary data concerning selected dimensions of precarious employment, including low pay, irregular working hours, low job security and limited representation of workers’ rights. This concluding section provides a cross-sector comparison of the findings, by examining similarities and differences across those five sectors. It also discusses the main drivers of precariousness and the effects of the initiatives of social partners to address precarious works in Romania. It concludes with practical implications.

3.1 Cross-sectors comparison

Despite a substantial deregulation of the labour market through legal changes and a major reduction of collective bargaining coverage after 2010, the share of standard full-time employment contracts has remained relatively stable over the last 10 years in Romania; less than a third of the total labour force is employed on non-standards contracts, with self-employment being the most common non-standard form of employment, followed by part-time and fixed-term contracts. Labour shortages linked to massive emigration inhibited employers to increase the use of non-standard employment contracts, particularly in construction, retail and healthcare sectors. Nevertheless, there has been an upsurge in outsourcing and ‘leasing’ of personnel in some sectors dominated by MNCs (i.e. automobile and IT). TAW is the only sector where non-standard contracts are dominant, as TAWs main purpose it to supply the workforce for companies operating in other sectors. In addition, findings suggest that
the deregulation led to an increase in the share of informal work, particularly in low pay sectors (i.e. construction and retail). Thus, there is variation across sectors in the use of non-standard contracts (see Table 24).

Somewhat surprisingly, findings indicate a *decrease in the level of dualization* between the working conditions for employees on standard and non-standard contracts (except in the metal sector) since 2008, due to two main reasons.

- **First**, there is limited dualization concerning job security, as the recent legal changes allow employers to increase worktime flexibility contingent on firms’ needs for all employees, including those on standard contracts. The new provisions of the Labour Code makes it easier for employers to use irregular working schedules as well as a shorter or longer working week (overtime) for full-time employees. Furthermore, the 2011 labour laws permit employers to set unilaterally the workload for employees on standard contracts. Hence, there is more uncertainty concerning the workload and working time for employees on standard contracts.

- **Second**, the crisis induced measures, such as austerity measures, job losses and a massive decline in collective bargaining coverage led to lower wages for many employees on standard contracts. As a result, respondents reported that there was a massive increase in the share of employees with standard contracts who get the minimum wage (circa 80 percent in construction, 60 percent in healthcare and 45 percent in the retail out of the total sectoral labour force) (see Table 24).

Consequently, key working conditions have been diminished for many employees on standard contracts, becoming more similar with those of non-standard employees.

The 2011 legal changes increased employers’ prerogatives to downgrade the main working conditions for employees on standard contracts by using *internal flexibility* to deal with market uncertainty in all sectors. In the healthcare and retail sectors, precariousness has increased solely due to internal forms of flexibility, particularly in the form of low wages, increased workload, working time re-organization (i.e. healthcare) and irregular working time (i.e. retail). Nevertheless, findings indicate that the use of internal and external flexibility varies across sectors (see Table 24).

In the metal, construction and TAW sectors, employers also used *external flexibility* to adapt to fluctuations in the market. In these sectors, foreign MNCs generally increased the use of agency workers as well as outsourcing aimed at reducing labour costs, as indicated in Table 24. Although outsourced employees may have full-time open ended contracts, findings indicate that the purpose of outsourcing has been to reduce labour costs. Moreover, while leased workers by TAWs should have the same working conditions as regular employees following the 2015 legal changes (except job security), outsourced workers (by TAWs or any other companies) are not covered by this law. Consequently, outsourced workers can be employed with worse working conditions than regular employees in user companies, even if they have a full-time open ended contract. This type of dualization between core and outsourced employees on standard contracts is often not captured by statistical data.
Findings suggest that there has been an increased dualization between regular employees and outsourced employees in a small number of highly unionized large companies in the metal and IT sectors, which remained profitable after 2008. In these companies, unions managed to improve working conditions for regular employees following protest actions (i.e. Dacia Renault and Alcatel-Lucent). Nevertheless, in those cases, unions also strived to improve the working conditions for agency and outsourced workers working on their premises. Consequently, by and large, the use of both internal and external flexibility resulted in a decrease in the gap between regular and non-standard employees.
Table 24: Summary of main sectoral developments in precarious work in Romania

<table>
<thead>
<tr>
<th>Sector</th>
<th>Main developments since 2008</th>
<th>Responses to precarious employment</th>
<th>Other developments</th>
</tr>
</thead>
</table>
| Labour market dualization | Increased external and internal flexibility  
Dualization along job security, but rather limited increase due to labour shortages (inhibitor)  
Drivers:  
- crisis-induced business insecurity after a period of boom;  
- deregulation of labour market in 2011 and other legal changes | - Different forms of fixed-term work, such as  
- Informal work  
- Self-employment  
- Daily labourers  
- lower wages for all workers, including those on standard contracts (est. 80% on minimum wage)  
- job insecurity, no voice and limited (if any) social benefits for self-employed, daily workers and those working in the grey market | - Purpose: reduce all non-standard forms (not elimination)  
- Rationale: economic and equality  
- Approach: inclusive  
- Instruments: legislative, collective bargaining (CB)  
- Implications:  
  - for precariousness: (a) increased potential for a race to the bottom in labour standards; (b) reducing precariousness by providing financial support during temporary interruption of work;  
  - for social dialogue (SD): weakening their role in CB, while maintaining constructive bi-lateral dialogue with ARACO | The two social partners developed bi-partite institutions to deal with the inherited work precariousness in the sector before 2008 (i.e. bad weather funds, migration, training, and health and safety). |
| Construction | Purpose: reduce informal work, maintain fixed-term contracts  
Rationale: regulatory and organizational considerations  
Approach: inclusive  
Instruments: CB and legislative  
Implications:  
- for precariousness: increased precariousness within existing types of contracts  
- for social dialogue: weakening their role in CB, while maintaining constructive bi-lateral dialogue with FGS |                                                                 |                                                                 |


<table>
<thead>
<tr>
<th>Sector</th>
<th>Labour market dualization trends and reasons</th>
<th>Forms</th>
<th>Dimensions</th>
<th>Unions</th>
<th>Employers</th>
<th>Other developments/joint initiatives</th>
</tr>
</thead>
</table>
| Healthcare   | No dualization, but increase internal flexibility | Increased precariousness within full-time open-ended contracts; other employment forms marginal (under 5%) | Low wages (est. 60% of total labour force on minimum wage) Working time – increased workload and unpaid overtime | Purpose: retain standard forms for main job, increase self-employment (to supplement income) | Purpose: reduce/eliminate informal work | - Joint initiatives by unions and employers  
(a) Health card – to reduce illegal reporting;  
(b) to increase budget for healthcare sector.  
- Employers demand special lower taxes for doctors to reduce emigration.  
- Union actions often targets the government rather than private employers, as 80% of labour force worked in the public sector in 2014. |
|              | Drivers  
- crisis-induced austerity measures led to massive wage cuts  
- deregulation of labour market  
Inhibitors of dualization:  
- labour shortages due to massive migration  
- low wages for standard contracts. | | | | | |
<table>
<thead>
<tr>
<th>Sector</th>
<th>Main developments since 2008</th>
<th>Responses to precarious employment</th>
</tr>
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<td></td>
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<td>Unions</td>
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| Metal  | Increased (a) **external** and (b) **internal flexibility**<br> (a) increased dualization between standard employment vs. outsourced and/or agency workers in the automotive sector<br> (b) increase use of shorter and longer working hours for employees on standard contracts<br> Drivers: - MNCs following the crisis - deregulation of labour market in 2011 | Job insecurity leading to income and pay insecurity for fixed-term outsourced and agency workers; also, generally lower pay for these two categories. Working time unpredictable for employees on standard contracts (i.e. shorter or longer working week for regular employees for supplier of auto components and manufacturers of white goods)<br> TAW – legal initiative in 2015 to equalize the rights of agency workers to regular employees, but still differences apply due to implementation issues. | **Purpose**: to **reduce** non-standard forms<br> **Rationale**: equality in diverse employment forms when the work done is the same<br> **Approach**: from inclusive re: CB separation to exclusive approach (special union attention devoted to agency workers)<br> **Instruments**: company-level CB, legislation and political lobbying<br> **Implications**: - *for precariousness*: some reduction through legislation on TAW and through CB; - *for social dialogue*: weakening role of multi-employer collective bargaining, lower bargaining coverage*<br> | **Purpose**: to maintain or increase functional flexibility<br> **Rationale**: economic (adjustments to economic downturns) and institutional (increase employers’ prerogatives enshrined into 2011 labour laws)<br> **Approach**: decentralized<br> **Instruments**: company-level CB in large firms, legislation and political lobbying<br> **Implications**: - *for precariousness*: expansion of precariousness through expansion of flexible work forms - *for social dialogue*: weakening role of multi-employer collective bargaining. | High level of unionization of the large MNCs, but no sectoral CB since 2011;<br> EWCs play a key role in getting relevant information for company level CB purposes.<br> High fragmentation of social partners.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Labour market dualization trends and reasons</th>
<th>Forms</th>
<th>Dimensions</th>
<th>Unions</th>
<th>Employers</th>
<th>Other developments/joint initiatives</th>
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<tbody>
<tr>
<td>Retail</td>
<td>Increased internal flexibility</td>
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<td>- driver: 2011 legal changes</td>
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<td></td>
<td>No dualization, as the retail sector faces high fluctuation of the workforce and labour shortages linked to emigration.</td>
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<td></td>
<td>The share of non-standards contracts has declined (Table 19).</td>
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<td></td>
<td>Full-time employment</td>
<td></td>
<td>Low wages (est. 45% on minimum wage in the retail sector)</td>
<td></td>
<td>Purpose: to increase wages and certainty re: working time for employees on standard contracts</td>
<td>Purpose: to reduce/eliminate informal work; would like a sectoral collective agreement to cover all employees.</td>
</tr>
<tr>
<td></td>
<td>increasingly exposed to internal flexibility, particularly irregular hours</td>
<td></td>
<td>Working time flexibility contingent on firms’ needs – irregular shifts, long hours, rest time between shifts</td>
<td></td>
<td>Rationale: organizational (to justify their existence and to enable them to organize workers) by securing decent working conditions.</td>
<td>Rationale: economic and organizational considerations (reduce unfair competition)</td>
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<tr>
<td></td>
<td>Self-employed (decline from 15% in 2008 to 10% in 2014)</td>
<td></td>
<td></td>
<td></td>
<td>Approach: inclusive and exclusive</td>
<td>Approach: inclusive</td>
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<td></td>
<td>Part-time contracts (2.5% in 2008, while 1.6% in 2015)</td>
<td></td>
<td></td>
<td></td>
<td>Instruments: strong focus on organizing workers in MNCs, monitoring legal compliance at company level.</td>
<td>Instruments: organizing MNCs employers, involvement in sectoral bi-partite institutions</td>
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<td></td>
<td>Informal work</td>
<td></td>
<td></td>
<td></td>
<td>Implications: - for precariousness: reduction in few highly unionized MNCs. - for social dialogue: weaker role in CB since 2011 (no sectoral CB, but bargaining still relevant at company level where more than 50% of the labour force is unionized.</td>
<td>Implications: - for precariousness: reduction of informal work - for social dialogue: increased involvement of foreign employers in CB, but decentralization (no multi-employer bargaining since 2011).</td>
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The union organized workers in several MNCs since 2009 with international union support (i.e. UniGlobal and Ver.di). A workplace partnership was developed between the company-level union and local management after 2009. The union leader of the sectoral federation played a critical role in organizing workers and in developing cooperative relations with the senior management in several MNCs.
<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>TAW</td>
<td>Increase use of agency workers to ensure external flexibility for user companies</td>
<td>Over 90% of labour force on fixed-term contracts.</td>
<td>Job uncertainty.</td>
<td>Purpose: unions in user companies seek to reduce the share of agency workers while also trying to improve their working conditions (i.e. IT, telecommunication and automotive industries)</td>
<td>Purpose: expanding the use of agency workers</td>
<td>The only sector where there is no union federation.</td>
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<td>Drivers: - MNCs (i.e. IT, automobile, telecommunication) to deal with the crisis - 2011 legal changes reducing restriction for using agency workers</td>
<td>While leased employees should have the same working conditions as regular employees, outsources employees via TAW can be paid less than regular workers.</td>
<td>Prior to 2015: pay dimension, agency workers could be paid less than regular workers.</td>
<td>Rationale: equality in diverse employment forms from a moral as well as pragmatic view to avoid undermining working conditions for regular employees (their members).</td>
<td>Rationale: economic and organizational rationale</td>
<td>Legal changes in 2015 initiated by the union operating in a user company.</td>
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<tr>
<td></td>
<td>Potential decrease in dualization between agency and regular workers following 2015 legal legislative changes aiming to equalize working conditions of agency workers.</td>
<td>Agency workers working abroad paid the Romanian minimum wage, while daily allowance was paid to substitute wages as this is exempt from tax and social security contributions.</td>
<td>Generally lacking interest representation and bargaining coverage.</td>
<td>Approach: from exclusion (legislation) to inclusive action (CB in the user company);</td>
<td>Approach: inclusive</td>
<td>TAWs happy with the provision requiring user companies to provide the same working conditions for regular and agency workers.</td>
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<td></td>
<td>Instruments: strong focus on legislation and lobbying as well as company level CB for user companies.</td>
<td>Instruments: strong focus on legislation and lobbying directly and via the American Chamber of Commerce.</td>
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<td>Implications: - for precariousness: potential reduction – achieved via recent legislative changes - for social dialogue: no sectoral industrial relations institutions (no union federation).</td>
<td>Implications: - for precariousness: attempt at expansion of TAW in a regulated environment; nevertheless, support for equal pay for agency workers might lead to reduction - for social dialogue: dealing directly with government (national level); no sectoral unions.</td>
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</table>
There are three interrelated key drivers for increased functional flexibility, often associated with a rise in precariousness. First, the downgrading of employment rights in 2011 had the greatest effect in all sectors (see Table 24). Findings suggest a degree of variation in the use of employers’ new prerogatives across companies, depending on labour market developments and the strength of the local union, including their capacity of mobilization, confirming previous studies (Trif, 2016b). Second, the (international) competition in the context of the crisis had a great effect on increasing the use of both external flexibility (i.e. TAW, metal and construction companies) as well as internal flexibility, by lowering wages and using irregular working time contingent on market demands. Unions managed to maintain or improve working conditions solely in profitable companies. Third, the government policies concerning austerity measures led to the precarization of working conditions in the healthcare and other public sectors (Trif, 2013).

In addition, international developments played a dual role in the development of precarious work in Romania. On the one hand, the Troika played a key role in supporting the downgrading of employment rights in 2011 by the Romanian government (Trif, 2016a). The attempt to amend the legislation in 2012 by the centre-left government to make it in line with the ILO conventions was opposed by EU and IMF. Also, as Romania had rather protective labour laws before joining the EU, the harmonization of its legislation with the EU social acquis resulted mostly in deregulation (Trif, 2008a), supporting the precarization of work. In addition, MNCs had a major influence in the 2011 legal changes as well as in expanding the use of external flexibility, by transferring outsourcing practices to their subsidiaries in Romania. On the other hand, international collaboration between Romanian unions and other international unions and EWCs has helped Romanian unions to improve working conditions for their members in MNCs via collective bargaining (i.e. retail, IT and metal sectors). Interestingly, the massive emigration following Romania’s access to the EU resulted in labour shortages, which in turn, reduced the use of non-standard contracts. Although labour shortages did not result in higher wages during the recession (Stan and Erne, 2014), it is plausible that they would stimulate wage increases during economic growth. Thus, Troika and MNCs have been key drivers of work precarization in Romania, while international collaborations by unions appear to be an effective instrument that could be utilized to reduce the expansion of precarious work by MNCs.

Summing up, the 2011 legal changes provided more scope for both internal and external flexibility, by reducing individual and collective employment rights. This, in turn, decentralized and fragmented the setting of working conditions, making it primarily contingent on developments at the company level. Unsurprisingly, there is variation across and within sectors in terms of the use of internal and external flexibility, mostly contingent on employers’ needs and unions’ ability to negotiate working conditions at a company level.

3.2 Precariousness and industrial relations

While social partners focused on legal initiatives to regulate precarious work at the national level, they utilized additional initiatives at lower levels. First, unions and employers’ representatives had joint initiatives to reduce informal work (which is generally the most precarious form) in the construction, retail and healthcare sectors (Table 24). Also, the inherited precariousness of construction work, led to the development of bipartite structures to support employees (i.e. bad
weather funds, training, and health and safety). Second, prior to 2011, sectoral unions and employers’ federations negotiated collective agreements covering all employees in each sector investigated, except TAW. Although there were no *erga omnes* sectoral agreements post 2011, there are still multi-employer agreements in the healthcare and automotive sectors as well as a social pact in the construction industry. Third, the uncertainties related to the 2011 legal changes and the crisis triggered organising campaigns by union federations, particularly in MNCs. In the IT sector, a new type of union was formed to defend the interests of outsourced workers across MNCs. A retail union also unionized workers in several large MNCs with international support. Furthermore, the product and labour market uncertainties led to the emergence of new employers’ associations in the retail, healthcare and TAW sectors after 2008, indicating a degree of consolidation of sectoral institutions.

Summing up, despite a decline in the role of social partners via sectoral collective bargaining, they have been instrumental in dealing with precarious work. The increase of uncertainty for both employers and workers has led to joint actions in cases where social partners had common interests (i.e. reducing informal work) and the emergence or consolidation of certain sectoral organizations, in the best case scenarios. Nevertheless, by and large, the importance of established sector-level industrial relations structures in addressing precarious forms and dimensions of precarious work has declined since 2011, primarily due to a lack of *erga omnes* sectoral agreements.

### 3.3 Policy implications

The Romanian social partners seek to regulate precarious work primarily through shaping the legislation. It appears to be almost impossible for social partners to have a significant contribution to reducing precarious work unless the government strengthens law enforcement and amends the 2011 labour laws to guarantee at least, the fundamental union rights in line with ILO Conventions. While these minimum collective rights are indispensable, the social partners need to be aware that the labour legislation can be a double edge sword. The legislation is contingent on the political orientation of the government and it can be radically changed, as demonstrated by developments in 2011. Prior to 2011, the favourable labour legislation for social dialogue ensured a degree of external legitimacy for both unions and employers’ organizations due to their roles in cross-sectoral and sectoral collective bargaining and other bipartite and tripartite bodies, often to the detriment of developing internal legitimacy. Moreover, in a context of favourable individual employment rights, employees may perceive that there is no need for unions to defend their rights, although there are issues with law enforcement. Interestingly, the main joint initiatives between unions and employers’ organizations have been developed to reduce (or eliminate) informal work (i.e. construction, healthcare and retail). Overall, social partners need to improve their internal legitimacy to enable them to influence developments in employment relations, including addressing precarious work issues.

Findings across sectors indicate that there are two main inter-related factors that affect internal legitimacy of social partners. First, the leadership plays a key role in gaining (or losing) internal legitimacy. Findings suggest that initiatives of union leaders at all levels (national, sectoral and company levels) demonstrating that leaders do not focus their efforts on advancing
their own interests have assisted unions in gaining legitimacy. Such leaders focused their efforts on organizing workers (i.e. retail and IT) and mobilizing workers to advance workers interest via legislation (i.e. BNS at a national level) and collective bargaining (i.e. healthcare, retail, metal and IT), even in the dire circumstances following the 2011 legal changes. The second aspect refers to proven results that organizations have advanced the interests of their members. For instance, the SIIT union managed to organize young IT workers (who are very rarely unionized, after the union has improved the working conditions for outsourced workers. Nevertheless, findings also show that learning from failed initiatives can be a valuable source of information that helps them succeed in subsequent initiatives, which in turn increases legitimacy: for instance, BNS failed in the first attempt to gather sufficient signatures for a civic initiative to change the Labour Code, while it succeeded in the second attempt, by involving rank-and-file members; also, FSC has failed to preserve the newly created unions in retail companies in their first attempt, while they succeeded in their latest attempt to unionize MNCs with international support. Although these examples relate to unions, it is plausible that leadership and proven capacity to advance members interests are key aspects that affect internal legitimacy for both social partners.

In terms of addressing precarious work, the Romanian unions rediscovered that organizing workers and collective bargaining are crucial instruments to improve precarious working conditions at company level. More unions could capitalize on the international support to organize workers, as this proved critical in reducing the spread of precarious work into Romanian subsidiaries of some multinationals. Employers also need to be aware that using their new prerogatives to reduce labour costs affects the quality of their labour force, which in turn, is likely to reduce the quality of products or services provided. Apart from being socially irresponsible, a ‘race to the bottom’ in labour standards can easily destroy a company’s reputation.
Bibliography


Hayter S, Vargha C and Mihes C (2013) *The Impact of Legislative Reforms on Industrial Relations in Romania*. Budapest: ILO.


