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**Author(s):** Mrozowicki, Adam; Bembič, Branco; Kall, Kairit; Maciejewska, Małgorzata; Stanojević, Miroslav

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Adam Mrozowicki, University of Wroclaw

Branko Bembič, University of Ljubljana

Kairit Kall, University of Jyväskylä and Tallinn University

Małgorzata Maciejewska, independent researcher

Miroslav Stanojević, University of Ljubljana

## **Union campaigns against precarious work in the retail sector of Estonia, Poland and Slovenia**

### **1. Introduction**

This chapter addresses the problem of trade union responses to the precarisation of work in the retail sector in Estonia, Poland and Slovenia. The retail sector is as an example of low-paid sector, in which trade unions face similar challenges associated with high levels of non-standard employment (Carré et al. 2010). The global economic crisis of 2007-8 and subsequent downturn led to increased competitive pressure on wages and working conditions (Mrozowicki et al. 2013). As a result, unions in all three countries have become increasingly active in organizing and representing precarious workers (Trif et al. 2016). At the same time, their strategies and success have been shaped by each country's distinctive industrial relations system (Bohle and Greskovits 2012; Kohl 2009).

In this chapter, we ask two questions: First, what impact have sectoral characteristics, institutional factors, and trade union strategies had on patterns of precarious work in retail workplaces across Estonia, Poland, and Slovenia? Second, are new patterns of solidarity emerging in the retail sector of these three countries following the economic downturn? We consider precarious employment as a relational category defined, on the one hand, by the expansion of non-standard employment contracts and, on the other hand, by the expansion of low paid jobs and growing insecurity in pay, job security, social status and career progression (Arnold and Bongiovi 2012; Heery and Salmon 2000; Vosko 2010). It is often assumed that precarisation increased in Western capitalist countries “with the erosion of the ‘Fordist bargain’ and the ‘standard employment relationship’ roughly since the 1970s” (Mosoetsa et al. 2016; Standing 2011), in addition to the crisis of collectivist and solidaristic trade unionism. However, even if precarity can be seen a norm for all capitalist societies, it takes different forms and varies in intensity across time periods and regions. Precarious employment patterns that developed in Central and Eastern Europe (CEE) following the return of capitalism can be seen as partially driven by similar factors as in the Western capitalist countries (Heery and Salmon 2000; Standing 2011). Yet its forms also reflect a specific institutional context marked by the legacies of variegated state socialist regimes and their pathways of capitalist transformation. This chapter is centrally concerned with the impact of different types of CEE political-economic regimes, including the “neoliberal” regime in Estonia, the “neocorporatist” regime in Slovenia and the “embedded neoliberal” regime in Poland (Bohle and Greskovits 2012; Crowley and Stanojević 2011), on the forms of the precarisation of work and union attempts to counteract it.

We can distinguish between several theses in the literature regarding the effects of institutional and sectoral factors and trade union power resources on trade union strategies towards precarious employment (Benassi and Dorigatti 2015; Benassi and Vlandas 2015; Pulignano and Signoretti 2016; Mrozowicki 2014; Trif et al. 2016). One argument holds that

encompassing institutions increase unions' institutional power, understood as the ability of unions to regulate employment conditions through collective bargaining and the political/legal leverage (Doerre et al. 2009; Doellgast et al. 2016, 575). However, unions' institutional power is not reducible to favourable institutions, but dependent on unions' structural and especially associational power resources as well.<sup>1</sup> Our earlier studies on the retail and automotive sectors demonstrated that Slovenian trade unions' higher institutional power tended to support collective bargaining solutions to the problems of precarisation that followed the 2007 global economic crisis. By contrast, unilateral responses predominated in Estonia and Poland, where the institutional power of unions was weaker, (Mrozowicki 2014; Mrozowicki et al. 2013).

Second, sectoral characteristics are often argued to influence the types and levels of workers' organisations on trade union responses towards precarious work (Carré et al. 2010; Geppert et al. 2014; Jany-Catrice and Lehndorff 2002). Following Wright (2000) and Silver (2003), we distinguish between structural power that results from workers' location and role within the economic system, particular sector or workplace; and associational power, reflecting the formation of workers' collective organisation and its internal features. In sectors such as retail, in which structural power of workers is limited, trade unions have to rely more on various forms of associational power (Silver 2003). Research on precarious workers organising (Chun and Agarwala 2016; Sarmiento et al. 2016) provides evidence that the types of associational power that are crucial to success are those linked to union capacities to build links with workers' communities beyond workplaces, utilise their discursive power to address new targets of claims (states, customers, MNCs) and build new, solidaristic identities among the workers themselves. Framed in the language of power resources theory (Levesque and Murray 2010, 339), unions need both new kinds of network embeddedness (solidarities manifested into horizontal and vertical links with other unions and civil society organisations) and narrative resources (i.e. "the existing stock of stories that frame understandings and union actions and inform a sense of efficacy and legitimacy").

In this chapter, we examine how institutional differences in industrial relations, sectoral characteristics, and union resources interact to influence the paths available to unions, as well as their degree of success in limiting precarious employment and establishing ties of solidarity across workforce segments. Our main argument is twofold. On the one hand, labour's responses to precarisation have differed due to the variegated industrial relations systems, which influence both sectoral forms of precarity and union resources. These differences reflected opportunities and constraints embedded in distinct institutional contexts. Because of their institutional resources, Slovenian unions can be seen as most successful in counteracting precarisation out of three cases studied. On the other hand, we observe innovative approaches emerging in all three countries, some of which transcend institutional opportunities and constraints. These innovations reflect the strategic choices of sectoral- and company-level trade union leaders (Turner 2009) as well as the dynamics of workers' collective mobilisation as union members and citizens capable of building up new ties of solidarity within and across the sector. Thus, rather than seeing union responses as determined by institutional context, we interpret them in terms of strategic utilisation of various context-bound options in the course of ongoing social struggles in the countries studied.

The chapter is divided into three main parts. First, we discuss our research methods and rationale for selecting the empirical cases of companies and countries. Next, we present background to the analysis of precarious work in retail. This includes a discussion of the

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<sup>1</sup> In this chapter we distinguish between "formal institutions" and "unions' institutional power". Although the two often overlap, we follow here Dörre et al. (2009: 37) in that institutional power is past "structural and organisational power ... incorporated into societal institutions." Also, we posit that this power that is built into institutional structure needs to be constantly supported and defended if it is to function as a power resource.

meanings and mechanisms of precarisation and the role played by employment characteristics and industrial relations. In the body of the paper, we present our empirical analysis in a country by country fashion, which enables us to explain differences in patterns of solidarity (and the lack of thereof) by referring to interactions among institutions, sectoral characteristics and actors' strategies at three levels (national-level, sectoral level and company-level). Finally, we engage in a comparative discussion aimed at more systematic analysis of conditions, forms and limits of new solidarities emerging in the retail sector in Estonia, Poland and Slovenia.

## 2. Methods and case selection

This chapter examines the responses to the precarisation of work by organised labour in a sector (retail) with overall high incidence of precarious work and differentiated power resources of unions to counteract precarity. Empirical data are drawn from interviews with unionists from six multinational food retailers and expert interviews with sectoral and national-level union officials and employer representatives conducted between 2011 and 2016. We also analysed secondary data, including press reports and sectoral employment statistics taken from corporate reports. In total, we conducted 9 interviews in Estonia, 16 interviews in Poland (plus 21 background interviews carried out in 2002-2011) and 10 interviews in Slovenia.

The three countries selected for this study represent three different types of capitalist regimes that evolved in the Central and Eastern Europe after the end of state socialism. Bohle and Greskovits's (2012) distinguish between the neoliberal type (Estonia) marked by the "combination of market radicalism with meagre compensation for transformation costs" (ibidem: 3), the embedded neoliberal type (Poland) characterised by a "permanent search for compromises between market transformation and social cohesion" (idem) and the neo-corporatist type (Slovenia) manifested by "negotiated multilevel relationships among business, labour, and the state" (idem). Regional varieties of industrial relations systems developed in parallel to changes in political economies. Slovenia, with its legacy of strong working class mobilisation, stood out as an exception in which rather encompassing institutions of tripartite economic coordination and multi-employer collective bargaining emerged (Crowley and Stanojević 2011). In Estonia and Poland, neo-corporatism has never really developed or took a more "illusory" form (Ost 2000) and single-employer collective bargaining is dominant. Nevertheless, due to the legacy of independent unionism (NSZZ Solidarność) in the 1980s, Polish unions possess overall stronger power resources than their counterparts in Estonia, which is marked by a general weakness of bottom-up workers' movement both before and after the system change.

Research has also shown that the characteristics of employment at the sectoral and company levels mediate institutional effects on the incidence and forms of precarious work in CEE countries (Trif et al. 2016; Mrozowicki et al. 2013). The retail sector is characterised by sharp cost-based competition and strong downward pressure on wages and other employment conditions throughout the Western world, with non-standard forms of employment becoming more common (e.g. Carre et al. 2010; Jany-Catrice and Lehndorff 2002). Our earlier work indicates that the economic crisis following 2007 offered retail employers further leeway to justify and accelerate the expansion of low-paid and unstable employment (Mrozowicki et al. 2013). Therefore, the main time frame for our analysis is the years 2008-2015; although we also acknowledge that earlier developments are relevant for the precarisation of retail work.

The multinational case study companies have different countries of origin but share some common characteristics. They all are among the five largest food retailers in each country, making them influential for the overall picture of employment conditions in the sector as a whole (Table 1). They have adopted similar business models and strategies, which, in all but one (EE1) case, were based on the diversification of shop formats as well as the spread of low

wage, insecure and precarious jobs. In all of the companies, wages were rather low (compared to the nation-wide average), companies made use of functional flexibility and multi-skilling, and employees experienced work intensification (particularly after the crisis).

**Table 1:** Overview of companies

	Estonia		Poland		Slovenia	
	EE1	EE2	PL1	PL2	SI1	SI2
<b>1. Market share in food retail (country level)</b>	9% (5 <sup>th</sup> largest, 2013)	17% (2 <sup>nd</sup> largest, 2013)	3.3% (5 <sup>th</sup> largest, 2014)	4.8% (4 <sup>th</sup> largest, 2014)	33% (largest, 2016)	23% (2 <sup>nd</sup> largest, 2016)
<b>2. Home country</b>	Finland	Sweden	France	UK	Croatia	Austria
<b>3. Number and structure of shops</b>	8 HM (2016)	14 HM, 24 SM and 46 hard discount shops (2016)	96 HM, 138 SM and 468 convenience stores (2014)	70 HM, 88 compact HM and 296 SM (2014)	22 HM, 390 convenience stores, 62 SM and smaller formats (2014)	47 HM 34 SM, 13 mega-markets, 2 City stores
<b>4. Number of employees in the country</b>	1000 (2016)	2700 (2016)	16 000 (2014)	29 934 (2014)	11 000 (2014)	4300 (2014)
<b>5. Trade union presence</b>	Estonian Trade Union of Commercial and Servicing Employees (ETKA)	Estonian Trade Union of Commercial and Servicing Employees (ETKA)	NSZZ Solidarność	NSZZ Solidarność; August '80, NSZZ Solidarność '80, the Confederation of Labour OPZZ and Trade Union of Retail Employees	Trade Union of Worker's in Trade Sector in Slovenia (SDTS affiliated to ZSSS); Trade Union of Commerce of Slovenia - (STS affiliated to KS-90)	KNSS (Confederation of New Trade Unions of Slovenia); SDTS (affiliated to ZSSS); STS - (affiliated to - KS-90)
<b>6. Collective agreement</b>	Company level	No	No	No	Sectoral & company level	Sectoral level

Source: 1: Eesti Konjunktuuriinstituut (2015) for Estonia, Dlahandlu.pl – for Poland; Delo (2014) for Slovenia. 2-4: Company home pages for Estonia, Annual Reports and CSR reports for Poland, Annual reports (AJPES) for Slovenia.

Note: HM - hypermarkets; SM - supermarkets. The names of companies were made anonymous.

### 3. Precarious work and industrial relations in the retail sector

The case study companies have broadly similar working conditions, with typically low pay and high insecurity. However, we found differences in patterns of precarious work at both company and national level. Below we show that these differences can be explained by two sets of factors: First, institutions at national and sectoral level affected overall patterns of precarity as well as unions' institutional resources to combat precarisation through collective bargaining. These include industrial relations structures, collective bargaining coverage and the role of the state in regulating employment conditions. Second, unions' relied on associational power derived from union membership structure, density, and solidarity links with other unions and

civil society organisations to supplement these institutional resources or overcome their relative weakness.

In Estonia, industrial relations institutions are the least encompassing of the three countries, despite formal institutional support for national tripartite dialogue and sectoral and company level collective bargaining. This makes the situation of retail workers particularly vulnerable, regardless of their employment status and forms. There are two sectoral level unions that retail workers can join: the Estonian Trade Union of Commercial and Servicing Employees (ETKA) is active in several retail chains (including in the companies studied here), while Estonian Communication and Service Workers' Trade Union (ESTAL) is present only in one. Most big retail employers are joined under the employers' federation Kaupmeeste Liit, but they are not interested in sectoral collective agreements. While the situation of overall precariousness and limited segmentation could potentially help to organise workers, trade unions lack both institutional as well as associational power, industrial relations are fragmented, and collective bargaining takes place mainly at the company level. There is no sectoral level collective agreement and union density stays around one per cent in the sector and 6.5 per cent nationwide, while collective bargaining coverage is 23 per cent (Visser 2015). The tripartite institutions at the national level are weak and virtually ignored by government while the sectoral level constitutes "the absent middle" between the two levels (Glassner 2013; Kallaste and Woolfson 2013).

Non-standard contracts are usually not considered as a necessary cost-saving alternative for Estonian employers, because employment protections associated with standard employment contracts are rather weak (Turk and Nurmela 2012), the national minimum wage is fairly low (employers usually have to pay above minimum wage to attract and keep employees), and inspection of working conditions is limited. A representative of the sectoral level retail union observed that the new Employment Contracts Act of 2009 increased labour market flexibility and made the employment conditions even less secure and more employer-dominated than before:

Well... let's say the new Employment Contracts Act [of 2009] is like... you can interpret it very differently. Secondly, it gives a lot of freedom to negotiate. They say we have a FLEXIBLE law. But what does it mean for service workers? For service workers it means that they work until 10 PM, until 11 PM. Well, actually until 11:30 [PM], because the work does not end when you close the shop. There is no more extra pay for evening work... In a lot of cases extra pay for night work is written into employment contract that means that basic salary already contains night extras. (Interview with ETKA's official, September 2014)

Company level data from Estonian companies EE1 and EE2 confirms the prevalence of standard contracts: in both MNCs, open-ended full-time contracts were the dominant form of employment, although part-time work was also used and services like cleaning and security were outsourced. EE1 used temporary agency workers (TAWs) and temporary contracts during periods of increased workload, like holidays, but the share was low.

Poland's formal institutions are more or less comparable to those in Estonia; however, its industrial relations structure is nevertheless somewhat more favourable for unions. The most important trade unions in the sector include the National Section of Commerce of NSZZ Solidarność, the Federation of Trade Unions of Employees in Co-operatives, Production, Commerce and Services in Poland (affiliated to the All-Poland Alliance of Trade Unions (OPZZ)), radical Free Trade Union August' 80 and the Confederation of Labour OPZZ. The only relevant employer organisation is the Polish Organisation of Trade and Distribution (POHiD), representing 13 large (mostly transnational) retail chains. However, it refuses to join sectoral level collective bargaining. As a result, similar to their Estonian counterparts, Polish unions operating in the retail sector find themselves in an environment of decentralised,

company level bargaining, with no sectoral level collective agreement. Union density is very low (some 2 per cent in the sector, 12 per cent nationwide in 2015) and nationwide collective bargaining coverage is limited (35 per cent in 2012, cf. Visser 2015). Yet, different from Estonia, NSZZ Solidarność benefitted from early international contacts, resource transfer from foreign trade unions, including the Service Employees International Union, and strategic leadership decisions to pool union resources from various sectors. The union used these resources to start organising campaigns in the late 1990s, enabling it to unionise some proportion of workers in large, multinational retail chains.

As compared to Estonia, the precarisation of employment in the Polish retail was more closely linked to segmentation in the sector, which reduced union associational power. First, trade unions are not present in small family-owned shops, convenience stores and franchise systems, as well as temporary work agencies. The majority of their members have open-ended contracts in the largest, multinational stores. Second, employers easily make use of strong inter-union rivalry, which is much more present in Poland than in Estonia and Slovenia, to counteract workers' associational power. In addition, in the mid-2000s, non-standard employment began to expand, creating additional lines of division among the workforce. This was due in part to the flexibilisation of the Labour Code in the wake of Poland's accession to the European Union (2002-2004) and cost-cutting employer strategies. Polish employers began to employ workers on temporary, civil-law contracts and encouraged self-employment, in which case the minimum wage does not apply. Precarisation took different forms in two segments of the sector. In the largest retail chains, stores increased their use of temporary work agencies and part-time jobs. In the small and medium enterprises, precarity was related to the use of franchises and the spread of self-employment. As remarked by an employer representative:

If you create a system which has more than 4000 shops, with 70-80 m<sup>2</sup> of sale area on average per shop, in which 3-4 people work, usually a family, you influence it by a certain standard. From the perspective of HR management in a corporation, it is precariat. And from a perspective that they are entrepreneurs bounded by a contract, it is self-employment, a provision of service called "management and running a shop". (Interview with the representative of POHID, May 2015)

Accordingly, both Polish companies studied made extensive use of non-standard employment contracts. In addition, cleaning and security services are outsourced, similar to in the Estonian cases. In PL1 the share of TAWs and workers with temporary employment contracts was very high (fluctuating between 30-70 per cent), but the share of part-timers was limited. By contrast, PL2 employed workers directly with employment contracts and the share of temporary workers was lower. Yet, (forced) part-time employment was more common than in PL1.

Compared to Estonia and Poland, in Slovenia industrial relations structures can be seen as the most encompassing. During the first decade of transition, Slovenia developed into a sort of coordinated market economy (Hall and Soskice 2001) with relatively good macroeconomic performance, a centralised collective bargaining system with an almost 100 per cent coverage rate and a relatively generous welfare state. This system proved quite resilient in face of shocks that started to occur in the mid-2000s, when Slovenia joined the European Union and basically fulfilled all required conditions to adopt the euro. Social and political conflicts escalated after 2008. Successive attempts by various governments to enforce unilateral decisions were opposed and quite frequently brought down by the massive demonstrations and referendums organised by unions. Union density that was relatively high (around 40 per cent nationwide) until 2003 (Stanojević 2015) dropped thereafter (20-25 per cent nationwide and some 15 per cent the retail sector in 2014), but the trade union movement, nonetheless, retained its mobilising strength, at least at the national level.

In the retail sector, the most important social partners in the sector are the Trade Union of Workers in the Trade Sector (SDTS), which is a member of the Slovenian Association of Free Trade Unions (ZSSS), and KS 90 – Trade Union of Commerce of Slovenia. SDTS is the only union representative at the sector level and thus the only signatory to the sectoral collective agreement on the part of the organised labour. At the company level in SI1, where both unions are representative, they cooperate and negotiate the collective agreement with the employer together. On the employer side, the crucial actors are the Slovenian Chamber of Commerce, the Association of Employers of Slovenia, and the Chamber of Commerce and Industry of Slovenia. There is a collective agreement in the sector and there are also some collective agreements at the company level. As the extension mechanism is applied, the sectoral collective agreement covers all companies in the trade sector and employees (excluding student workers, but including temporary agency workers).

Despite the presence of strong and encompassing institutions, precarious employment in Slovenia began to expand in the 1990s and further increased in the mid-2000s. Firms were under growing pressure to improve their international competitiveness during the process of EU accession. As a result, wage levels in many companies could be maintained only by resorting to labour intensification and flexibilisation of work, which increased the penetration of atypical forms of employment (Stanojević 2010). However, following the 2007 crisis the labour market situation worsened and some traditional retailers sought to replace the regular workers that left the sector with atypical, mostly precarious jobs. Discounters significantly expanded their operations, and mostly relied on part-time (Labour Code regulated) jobs. Developments in Slovenia thus started to resemble Poland; however, the stronger institutional and associational power of trade unions made it more difficult for employers to adopt fully successful segmentation strategies.

In both Slovenian case study stores SI1 and SI2, non-standard forms of employment were rather widespread. Most of the unionists we interviewed reported that traditional retailers, as well as SI1 and SI2, offered almost exclusively fixed-term contracts to new employees. Both retailers also used student work, which is an extremely flexible labour arrangement performed mostly on a part-time basis. Also, although TAWs did not represent a high share of total number of employees on the company level, they represented a very large share of warehouse workers.

It can be argued that crisis solidified the differences across the three countries that had emerged in the pre-crisis period. The outcomes in terms of the diversified employment precarisation patterns are demonstrated in Table 2.

**Table 2:** Basic employment dimensions in the sector (2014)

	<b>Estonia</b>	<b>Poland</b>	<b>Slovenia</b>
1. Employment share (section G47) in total employment	8.0%	9.1%	7.9%
2. Employment change (2008-2014)	-5.3%	-3.8%	-9.9%
3. Temporary employment share in total employees (section G) (change 2008-2014)	3.0% (1.0%)	36.7% (2.7%)	17.8% (-2.4%)
4. Part-time employment share in total employees (section G) (change 2008-2014)	11.4% (3.0%)	10.2% (-0.1%)	12.7% (3.1%)
5. Self-employment share in total employment (section G) (change 2008-2014)	4.5% (-1.6%)	8.3% (-0.3%)	4.8% (0.3%)
6. Number of employed persons per enterprise (average) (G47.110) – 2013	39.3	6.7	38.6
7. National level minimum wage (2014)	355 EUR	394 EUR	789,15 EUR
8. Gross monthly wage (section G47) (% of the average wage)	735 EUR (69.5%)	603,23 EUR (66.8%)	1184,77 EUR (76.9%)
(% of the national minimum wage)	(207%)	(153%)	(151%)
9. Estimated union density	1.2%	2%	15%
10. Sectoral level collective agreement	No	No	Yes

Source: 1-5: Eurostat LFS, 6: Structural Business Statistics Eurostat, 7-8: National statistical offices. 9-10 – Mrozowicki et al., 2013

Notes: Temporary employment category in the LFS is ambiguous as it includes both Labour Code employment and non-Labour Code employment forms. G: wholesale and retail trade; repair of motor vehicles and motorcycles. G47: Retail trade, except of motor vehicles and motorcycles, G47.110: Retail sale in non-specialised stores with food, beverages or tobacco predominating

The share of part-time employees oscillates between 10 and 12 per cent in all three countries (see Table 2), and in Estonia and Slovenia the share has increased since 2008 by 3 per cent, indicating a common cost-cutting strategy of retailers (cf. Carré et al. 2010; Grugulis and Bozkurt, 2011). Still, part-time work is less common than in many European countries due to generally low wages associated with it. In Poland, self-employment plays a greater role than in Estonia and Slovenia, due to the large number of small family shops and franchises. In Slovenia and Poland, the share of employees with temporary contracts is quite high: respectively 17.8 per cent and 36.7 per cent; with the higher Polish figure reflecting strong employer-driven segmentation. In both countries, in an attempt to bypass the costs related to standard employment, employers also use service contracts extensively, excluding workers from some rights guaranteed in Labour Code. These include civil law contracts in Poland and, in Slovenia, extensive utilisation of country-specific student work, which is used mainly due to its flexibility and not lower wages<sup>2</sup>. In Estonia, on the other hand, a rather low level of employment flexibilisation in terms of contractual arrangements can be observed. Seen from a different angle, in Estonia even *regular employment is almost completely flexibilised*. The sector can be seen as low wage in all three countries, based on the proportion of sectoral gross monthly wages relative to national averages. However, there are also significant differences between wage levels. Gross monthly wages in 2014 were 603.23 EUR in Poland (i.e. 66.8 per cent of the national average, 153 per cent of minimum wage), 735 EUR in Estonia (69.5 per cent of the national average, 207 per cent of minimum wage) and 1184.77 EUR in Slovenia (76.9 per cent of the national average, 151 per cent of minimum wage). Although the 2007 global financial crisis depressed economic activity in retail, average wages increased relatively fast in the Slovenian retail sector due to a sharp increase in the minimum wage, indicating the important role of articulation of union struggles above the sectoral level.

#### 4. Union strategies toward precarious work

Different patterns of precarisation and sectoral characteristics pose specific challenges for unions in the retail sector. At the same time, union approaches to regulate precarity are influenced by confrontations between capital and labour at the national and sectoral level. Institutional factors and power resources delimit the range of approaches at unions' disposal, but are also, at least to some extent, a condensed result of their past struggles. In this section, we first summarise the unions' approaches and their successes (or failures) in a country-by-country fashion. We then explain these outcomes in terms of the factors listed in the introduction; in particular, union power resources and institutional embeddedness. We conclude with a very brief discussion of some common limitations and challenges of the approaches observed.

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<sup>2</sup> It has to be noted that Eurostat figures on temporary employment (Table 2) also partially include non-labour code employment (such as civil law contracts).

#### 4.1 Strategies and outcomes

The strategies that Estonian retail unions apply at different levels are interrelated and mostly initiated by the sectoral union ETKA, to which also most company level retail unions are affiliated. First, Estonian unions, including those in the retail sector, are trying to secure better labour legislation by lobbying the government and striving for increases in the minimum wage through negotiations at the national level. This has a direct influence on the remuneration of retail workers, as retail is a low wage sector. Although the institutional framework for tripartism at the national level exists, the unions lack the power to back it up and social dialogue usually brings them meagre results. Unions have succeeded in gaining slow minimum wage increases and stopping further flexibilisation of the labour code (initiated by employers and the government). Unions were not able to stop government's unilateral changes to the new Employment Contracts act in 2008, which increased flexibility in the labour market for all workers. They did manage to stop, but not improve, planned changes in the collective labour law in 2012, including more restrictive rights to strike, by lobbying the government, organising small-scale protest action, and also using the help of International Labour Organization (Kall 2017). Importantly, unlike in Poland and Slovenia, Estonian trade unions did not build any important coalitions with other civil society organisations or political parties in their efforts to counter-act precarious work.

Social dialogue in Estonian retail has been further impeded by the fact that the employers' federation in retail is not willing to engage with sectoral level collective bargaining. In order to overcome this critical weakness and strengthen associational power, the Baltic Organising Academy co-sponsored by Nordic trade unions was established in 2010. Thanks to strategic decisions of its leadership, the main retail sector federation ETKA joined the Academy and has undertaken US-inspired, centrally-planned organising campaigns financed with the support of the Finnish private service sector union PAM since 2012. The Estonian members of BOA are committed to investing "at least 35 per cent of the campaign-generated membership fees into organising work" (Häkkinen 2013, 7). Some resource redistribution is needed to organise and represent precarious workers in retail, due to low membership in this sector. The important problem was overcome by international solidarity, followed by internal redistribution. The organising campaign produced some tangible results, most notably a company level collective agreement in EE1 that improved wages and other employment conditions (Table 3).

**Table 3:** Trade union instruments addressing the problems of precarious work and outcomes

	Estonia	Poland	Slovenia
		<b>Instruments</b>	
Organising	US-styled organising in large MNCs (since 2012 in EE1, 2014 in EE2) – BOA, sector level	The legacy of US-styled organising in MNCs – sector & national level, no TAWs, routine and protest-based recruitment in PL1 & PL2	Recruiting with elements of organising – company level (some TAWs in SI1, no TAWs in SI2)
Servicing	Rather limited, mostly sectoral level	Rather limited, company & sector	Extensive, at the sector & national level
Collective bargaining	Company – level, limited, no sectoral level CB	Company level, limited, no sectoral level CB	Extensive, collective agreement at the sector level

Mobilisation	Limited protests – company and national level, union-dominated	Cyclic protests, all levels, social campaigns involving political parties and NGOs	National level, broad coalitions and social campaigns
		<b>Outcomes</b>	
General outcomes	<b>Extensive precarisation</b> across the sector and islands of good practices in EE1&EE2 ( <b>limited segmentation</b> )	The early stage of nation-wide legal changes aimed at reducing precarious work ( <b>moderate precarisation</b> ) and <b>extensive segmentation</b>	Sectoral-level and national-level regulation - <b>reduced precarisation</b> via collective bargaining and legal changes and <b>moderate segmentation</b>
Detailed outcomes	Increasing union density in some MNCs, monitoring/benchmarking labour standards, some wage increases at the company level, CA in EE1	Increasing union density in some MNCs & legal changes thanks social campaigns at national and sectoral level aimed at reducing wage-based precarity and insecurity	Increases of wages at the sectoral level, counter-acting precarisation at the sectoral and national level, greater inclusion /coverage of non-standard employees
Shortcomings	Wage increases still small, no sectoral level CAs, limited density, limited coverage of non-standard employment, limited coverage of employees beyond certain stores	No sectoral level CAs and company level CAs in MNCs, limited inclusion and coverage of non-standard employees and limited access to workers in micro-companies	No provisions in sectoral level CAs for precarious (equal treatment of TAWs and LC regulated fixed term and part-time workers enshrined in the law) / non-standard employees, limited union organising at the company level

Source: Author's research. Grey marked are dominant instruments. CA = collective agreement, CB = collective bargaining, TAW = temporary agency workers, MNC = multinational companies, BOA = Baltic Organising Academy

In both Estonian case study companies, organising has raised union density and enhanced the monitoring and fulfilment of labour standards. Unionised employees who have the support of ETKA have become more aware of their rights and less afraid to demand better conditions. Further, in both companies trade union campaigns contributed to raising wage levels and employment standards – as employers sought to demonstrate that they could improve conditions without a collective agreement – hence helping to counteract wage-based precarisation. Notwithstanding these results, the unions' approach suffers from certain limitations. The scale of organising campaigns is relatively small and they targeted only two retailers; thus most of the sector stays uncovered. Also, temporary workers generally are not union members in both EE1 and EE2 (although their share is very small). In addition to organising, ETKA also employs media-oriented instruments and engages with dissemination of benchmarks on employment standards (informing workers about safety and health issues) as well as limited mobilisation (signatures gathering against wage cuts in some shops during crisis). Servicing in the retail sector is not very extensive, as resources are limited, but ETKA's members are given legal support, counselling and different courses. As non-standard workers rarely become union members, their access to these services is restricted. The most general result is continuous precarisation across the sector, which is countered neither by the emergence of the islands of good practices in two unionised retail chains nor by significant legal changes triggered by union actions.

Similar to the Estonian case, in Poland a national tripartite institutional structure exists, but has not been used for vigorous social dialogue. For some observers, far from constituting the mainstay of unions' institutional power, the national level tripartite institutions seem to be an empty institutional shell in Poland (Ost, 2000). Being short on institutional power, Polish

trade unions began to address the problems of non-standard and low-paid employment at the national level in late 2000s through some novel, mostly mobilisation-based instruments. They managed to frame precarious work as a social problem through mass media campaigns, cyclic street protests, as well as national and international pressure for legislative reform. Union demands included strengthening the Trade Union Act to improve union representation of precarious workers, raising the minimum wage, and creating minimum hourly wage for civil-law contracts, as well as measures counteracting the expansion of civil law and fixed term employment contracts (cf. Maciejewska and Mrozowski 2016). The retail sector unions were at the forefront of these activities, including the National Section of Commerce of NSZZ Solidarność, which was involved in nationwide campaigns to raise the minimum wage to 50 per cent of the national average wage and in the “Sisyphus” campaign against the expansion of “junk contracts”, involving spots on the Internet and in national media. In some campaigns, non-union actors were also involved. These included political parties, such as the right wing Law and Justice Party and the small, left-wing party Together; and social movements, such as the coalition of anarchist movement and trade union Workers’ Initiative organising Amazon distribution centres. The legal reforms aimed at reducing temporary and civil-law employment were implemented in the course of electoral campaigns of the Civic Platform (in 2014-2015), as well as following the victory of the Law and Justice in parliamentary and presidential elections 2015<sup>3</sup>.

Trade union density in the retail sector is as low in Poland as in Estonia. However, Solidarność was able to overcome this obstacle by combining international support and the advantages of being a general union, which allowed it to tap union resources from other sectors for organising campaigns. The efforts of trade unions did not result in a sectoral collective agreement, nor did they bring to a successful conclusion of collective agreement in any of the major retail chains. But the outcomes of retail unions’ actions are not negligible and some even reach to non-standard workers. The accomplishments in PL1 include, inter alia, the transformation of 5000 fixed-term contracts to open-ended contracts in 2011 and a new policy guarantying open-ended contracts for the employees with seniority longer than 15 months, as well as salary increases secured by a company-union agreement<sup>4</sup>. In PL2, in the course of company level consultations and company-union agreements, the unions achieved a reduction in the scope of collective redundancies and an increase in redundancy payments. They also began to represent the interests of merchandisers (employed by external companies), and successfully opposed the project to monitor the time of scanning of cashiers. Finally, they managed to remove a temporary work agency infamous for bypassing some of the labour code and health and safety regulations. Still, in none of the companies TAWs and self-employed (in the PL1 convenience stores) are recruited, as union leaders consider them either non-eligible due to legal regulations or too unstable to invest in organising them. As explained by one of the trade union leaders “We have nothing to offer them” (Interview with the sectoral representative of NSZZ Solidarność, April 2015). Another unionist (from PL2) says: “We don’t accept people without open-ended contracts as we know they would be fired by the employer” (Interview with the representative of NSZZ Solidarność in PL2, October 2015).

Following trade union organising campaigns at the turn of the 1990s and 2000s, working conditions began to improve in large super- and hypermarkets, as well as discounters belonging

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<sup>3</sup> Even though the reforms could indicate the increase in union institutional power, it has to be noted that the most of them were unilaterally implemented by the government rather than negotiated with trade unions who initially inspired them.

<sup>4</sup> The company agreements (in Polish: porozumienie) in PL1 and PL2 have no status of collective agreements - they are not registered as collective agreements and concern only specific problems at work. Yet, they were seen as binding as they resulted from the company-union consultations of company policies.

to multinational companies in Poland – in particular as compared to the disorganised segment of small shops. However, trade unions still lack strength to bring the sectoral employers' organisation to the bargaining table, negotiate a sectoral level agreement, and reduce workforce segmentation. As a result, unions are focused on increasing their associational and institutional power by social and political campaigns combined with company-, sectoral- and nationwide protests aimed at building solidarity within the sector and across other sectors, of which initial tangible results can be already observed.

Similar to Estonia and Poland, Slovenia has established national tripartite institutions. The Slovenian government also tried to bypass tripartite institutions and unilaterally pass neoliberal reforms (including introduction of mini-jobs in 2011) in more or less the same manner as the Estonian government did. This is, however, where the similarities end – the unions in Slovenia effectively deflected reforms and brought down the government in a series of referendums. Furthermore, only “neo-corporatist” Slovenia has a sectoral collective agreement covering the whole trade sector (G), with both social partners claiming that social dialogue in the sector is good. Greater institutional and associational power, with approximately 15 per cent union density in retail, make the need for organising less acutely felt in comparison with the other two countries. The general outcome of these encompassing institutions is less precarious conditions for workers in both standard and non-standard employment. The situation is changing, however, due to increasing difficulties with recruiting and organising workers in the hostile environment of discounters and smaller employers.

At the national level, the dominant union strategy is to influence labour and social legislation through tripartite negotiations. For example, the labour market reform in 2013 lowered the level of employment protection for regular workers (with rather negative outcomes for retail employees) while at the same time introducing a host of measures aiming at halting the expansion of precarious work. While a similar outcome was present in Poland, it was unilaterally introduced by the government rather than collectively bargained with employers and unions. In addition, similar to Poland but with more substantial results in terms of legislative outcomes, Slovene trade union confederations were involved in broad, nationwide class based campaigns. These involved coalitions with other civil society organisations (e.g. the 2011 ZSSS campaign against mini-jobs, together with a student organisation) or with a political party (e.g. the 2015 parallel campaigns for the redefinition of the minimum wage, including trade union confederations and a political party positioned left of social democracy). Both campaigns mentioned disproportionately affected the situation of retail workers.

At the sector level, the dominant tactics differ according to the workforce segment that is targeted. As regards the part time, fixed term, TAW<sup>5</sup> and regular workers (all within Labour Code employment), the main instrument of regulation is the sectoral collective agreement. Working time stipulations; equal treatment of TAWs and Labour Code regulated fixed term and part-time workers are enshrined in the law, which means that the provisions in collective agreements apply to them, too. Further, due to the perceived trade-off between interests of regular and atypical workers, there are no provisions specifically regulating the latter's working conditions. In fact, when asked about the reasons for not including issues concerning atypical workers in the collective agreement, union representatives often referred to trade-off between interests of regular and atypical workers:

*Union representative:* We could do it, certainly, we could do it. Now, the question is how much we could actually achieve, what would we have to forgo in order to get it.

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<sup>5</sup> In Slovenia the law stipulates that TAWs have to be treated equally as workers employed directly by the company. Hence, the provisions of collective agreements apply to them as well. A similar law is also present in Poland. However, it applies to hired employees only while the majority of the retail sector TAWs are civil-law workers.

*Interviewer:* Would you have to give up certain rights of regular workers?

*Union representative:* Yes, yes, probably so. (Interview with union representative, March 2016)

Hence, unions apply a separate strategy towards atypical precarious workers and try to attract them with servicing (legal support, tourist capacities and loan guarantees). This is, however, not to say that non-standard workers are ignored at the company level. For instance, one of the unions in SI1 managed to organise some agency workers that were treated unequally in respect to regular workers performing the same job. Also, the S1 company level union systematically engages in inter-firm solidarity practice as it regulates the working conditions of employees in convenience stores operating as franchises via its relations with the management of the franchisor. This practice was also found in another large state owned petrol retailer in Slovenia, where the union was strong enough to demand the cancellation of the franchise agreement in cases where the franchisee seriously breaches the labour laws or if the wages paid are lower than in franchisor operated petrol stations covered by company level collective agreement.

#### 4.2 Explanations

Comparatively, the retail sector in all of the three countries can be considered as precarious, but the concrete forms and extent of precarisation differ between the countries and companies studied. In this respect, the main dividing line seems to run between Estonia, where the share of non-standard work is relatively low, and Poland and Slovenia, which both feature a more segmented workforce. In Estonia, precariousness is virtually a universal feature of the retail sector work, and so unions pursue a relatively undifferentiated approach, seeking to build *internal solidarity* and through this to increase *associational power*. In Poland, one segmentation line runs between workers in large retail MNCs, on the one hand, and SMEs with self-employed and franchises, on the other. A second segmentation line cuts into the workforce of the MNCs themselves, dividing those in regular jobs from temporary employees, including those on fixed-term contracts of employment (Labour Code), TAWs and civil-contract workers (non-LC). In this context, considerable resources would be needed to unionise the segment of temporary workers marked by high turnover and promising only short-term results at best. The segment of small enterprises and self-employed appears almost totally impenetrable for traditional organising instruments. Under these conditions, the most promising venue for building solidarity across segmentation divides seems to be radicalisation and mobilisation by *framing the discourse*. This is the first step to increase associational power through protest actions that go beyond the workplace level. In Slovenia segmentation is also a problem, but the difficulties with unionisation of temporary workers seem less severe. Much larger financial resources allow sectoral unions to apply a somewhat differentiated approach with certain services attracting many non-standard and low paid workers.

Turning to institutional variables, tripartite institutions are established in all three countries, but only in Slovenia are unions in a position to pose a credible threat in case the tripartite dialogue is bypassed. This indicates that unions' associational power may be crucial for them to access institutional power through formal institutional structure – or for these structures to even function. Features of institutional regulation at the sectoral level are in place in all the countries studied, such as extension mechanisms, the favourability principle, or the presence of representative employer organisations. However, union density rates of 1-2 per cent in Estonia and Poland (as compared to 15 per cent in Slovenia) are hardly conducive to sectoral multi-employer collective bargaining. This higher density underpins Slovenia's firmly established collective bargaining institutions in retail; which regulate many aspects of the working conditions of atypical workers, as well. Hence, the major difference between Slovenia

and the other two countries does not concern institutional structure but rather union power. The weak enforcement of formal protective labour market institutions that do exist in Estonia provides further support for the argument that union power is more critical than formal institutions.

Indeed, unions' most important power resources enabling them to build ties of solidarity in Poland and Estonia derive from union *network embeddedness*. This involves the articulation between unions operating in the sector and union structures at different levels: at the national (confederation) level in Poland; and at the international level in both countries, through Estonian unions' cooperation in the Baltic Organizing Academy (currently) and through the cooperation between the SEIU and Solidarność in Poland. Slovenian unions also have relied on network embeddedness to support their campaigns. For example, the surge in the national minimum wage in 2010, which benefited retail workers, was to a large extent a generalised outcome stemming from the wage increase in a major exporter of home appliances. Mini-jobs legislation that was successfully resisted at the national level threatened workers in retail (and some other parts of the low paid and precarised service sector) more than workers in other industries. In addition, the fact that in Slovenia the collective agreement in the retail sector covers TAWs (with no derogations allowed), though clearly an institutional feature, is owed to national level negotiations in which unions exchanged statutory guarantees of equality of treatment against concessions to capital in other areas. In sum, institutions may well constitute tools at unions' disposal when it comes to constructing inclusive union strategies. Nonetheless, they are but a solidified outcome of past organised labour's struggles and, if they are to be preserved, they have to be constantly backed up by unions' power resources and capacities of making use of them by union leaders (and members) at various levels within trade union structures.

The importance of union power resources is further underscored if we look at patterns of mobilisation and relations with the government. The stronger the unions are, the more prominent is the role of mobilisation. In Estonia, where unions' associational power is very low and where they lack narrative resources legitimising social protests,<sup>6</sup> the unions are merely *lobbying* the government. Though unions in Poland are considerably stronger at the national level than in Estonia, those in the retail sector lack the resources necessary to unionise nonstandard workers and those employed in the SMEs segment. They thus find it difficult to apply traditional instruments. However, in the post-2007 crisis period, Polish unions changed tack and began organizing large scale mobilisation actions, which are more demanding in terms of resources than mere lobbying and where the *addressee* of actions are both "the people" and the government. The legacy of social movement unionism, present in Poland (as the legacy of Solidarność) and missing in post-Soviet Estonia, seems to be crucial in explaining this difference. Finally, Slovene unions' power may be institutionalised, but when these institutions are under threat, the unions are still able to bring "the people" to the streets and voting polls. At the same time, they are much less able to persuade workers to strike today than in early nineties when the industrial relations structure was formed – which makes mobilisation a *fall-back option* even when unions are engaged in "peaceful" negotiations. The militancy of Slovene unions can also be explained by their much stronger power at the national level than at company level. They thus rely on national mobilization and coalitions to sustain institutional power, and

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<sup>6</sup> In Estonia, discourse on class and inequality issues has been generally marginalised and instead national/ethnic and 'transition culture' discourses have dominated that have legitimized the existing inequalities and created ethnic divisions (Helemäe & Saar, 2015). This has made it difficult for the representatives of labour to legitimately counteract market-oriented policies (and the expansion of precarious employment) by bringing "the people" to the streets.

to try to compensate for their virtual invisibility and cooperativeness in a growing share of companies (Stanojević and Kanjuro-Mrčela 2016).

#### 4.3 Common limitations and challenges

Looking at the above explanations, it appears as if the past actions of the organised labour in the three countries could be almost *in toto* explained in terms of structural forces and resources inherited from past struggles. This is, however, but an illusion of perspective – we have to bear in mind the fact that if structural forces in a capitalist society are constantly exerting pressures for reshaping the society according to the needs of capital, not least by segmenting and atomising the workforce, virtually every collective act of defiance on the part of working class organisations palpably points to the importance of *agency*. The various forms of strategic union responses to the problems of precarious work would be difficult to uphold without the invention and innovativeness of trade union leaders and members at various levels of trade union structures. What then are the challenges that lie ahead for organised labour with respect to rebuilding the unity of the working class in the face of pressures for further segmentation and atomisation?

Our conclusion at this stage is that the challenge all the three labour movements face if they are to rebuild their power resources and counter precarisation is to re-link political and economic struggles, although each from a different angle. In other words, the political aspects of workers' solidarity, which are often lost in technical aspects of organising and collective bargaining (Simms et al. 2012), are the *sine qua non* condition to counteract precarisation. Notably, the efforts to build links with workers' communities beyond workplaces, which was said to be crucial in precarious workers' organising in other contexts (Chun and Agarwala 2016; Sarmiento et al. 2016), are still relatively weak in all three countries studied. In Estonia, where organising campaigns of precarious retail workers have already borne some fruit, the challenge seems to be linking these clear, though limited, economic achievements at the company level to a more politically oriented approach that could reach beyond the workplace level. The need for such a reorientation towards a more political, class based movement appears even more pressing among Poland's highly segmented workforce and internally conflicted unionism. This change of course might just be starting to get under way if the recent turn towards protest actions is complemented with some innovative form of organising atypical workers. In Slovenia, the political momentum of the unions at the national level proved crucial for warding off even more intensive precarisation and segmentation. If these institutional protections are not to recede, they need to be reinforced with stronger union presence in economic struggles at the company level. In none of the three cases is the way these challenges are to be addressed inscribed into initial conditions – it is only the collective agency comprising both organisational as well as political efforts that can provide a solution.

## 5. Conclusions

This chapter examined how sectoral characteristics, institutional factors and trade union strategies towards precarious work have shaped patterns of new solidarities in the retail sector following an economic downturn, based on a comparison of three CEE countries with variegated political-economic and industrial relations systems. Our analysis suggests that institutional differences influenced the forms and extent of precarious work. In Estonia, precariousness is nearly a universal feature of retail sector work and standard employment dominates, while in Poland and (to a lesser extent) Slovenia, the retail workforce is more differentiated between and within shops and atypical employment is rather widespread. While Estonia represents a case of the most extensive precarisation of all workers in the sector regardless of the types of their contracts, the situation in Poland is marked by greater

precarisation of those in non-standard contracts as compared to those with standard contracts, which reflects very limited organisation and representation of the latter. The attempts to advance workforce precarisation in Slovenia have been most seriously constrained thanks to union power resources and mobilisation capacities at the national level.

More generally, the chapter has demonstrated how opportunities and constraints embedded in institutional context have influenced union resources and responses to precarisation. Our analysis supports the role of encompassing institutions, including high coverage of collective agreements, as a tool to combat precarious work (Doellgast et al. 2016; Mrozowski, 2014). However, we conclude that unions' associational power (Levesque and Murray 2010; Silver 2003) and institutional power (Dörre et al. 2009, 37) are crucial for the institutions to function and bring gains for labour. Only Slovenian retail unions with their higher union density rate and occasional support from other unions, political parties, and social movements are in a position to guarantee the continuation of bi- and tripartite social dialogue and to regulate the conditions of atypical workers. Poland and Estonia both have rather favourable regulatory frameworks, which could be potentially used to improve the situation of precarious workers through tripartite social dialogue and multi-employer collective bargaining. However, as suggested earlier by Ost (2000; 2009), these institutions remain illusory as long as they are not backed by strong unions who are able to bring employers – by their mobilising capacities – to the bargaining table. In such a context, in order to combat precarious work more effectively, both Polish and Estonian unions have also tried to increase their associational power by making use of their network embeddedness (cooperating with national and international unions). The Polish unions have also made use of narrative resources and conducted different mobilisation actions directed to a wider audience, including social campaigns in mass media and the Internet. In order to succeed in reducing precarious work, the successful construction and use of narrative resources to mobilise the people and to conduct more politically oriented actions might be crucial.

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