

Country report: Slovenia

Introduction

Problems of high unemployment and labour law enforcement have confronted the Slovenian labour market for quite some time. But a notable increase in labour rights violations, as well as rising unemployment rates were witnessed as the financial and economic crisis proceeded. The context of the crisis was used by the government as a pretext to claim a need to ‘flexibilise’ labour legislation and to improve its enforcement. Poor labour market performance due to inflexible structures and incapacity to adapt to changing macroeconomic circumstances have been cited as contributing to the poor competitiveness of the Slovenian economy.¹ A pronounced aim of the reforms that were subsequently undertaken was to implement ‘flexicurity’ in the regulation of the Slovenian labour market. Having addressed the issue of increasing flexicurity in the labour market later than other countries, Slovenia deliberately integrated this idea into its crisis responses, aiming to improve international competitiveness. These responses included ‘providing better workers’ rights protection, lowering labour costs, simplification of layoff procedures for employers and more efficient supervision and judicial protection’.² Labour market developments in Slovenia following the global recession have exhibited increasing segmentation, especially along the lines of contract types (between permanent and temporary workers) and age (young and older workers seem to be particularly affected by precarious employment and unemployment).

The country-specific recommendations (CSRs) – issued annually by the European Commission and the Council of the EU under the European Semester – for Slovenia have consistently pointed to multiple reform needs in line with the targets of the Europe 2020 Strategy. With regard to employment protection legislation, these recommendations raised the need to reduce legal asymmetries between temporary and permanent contracts, tackle the regulation of student work and address the use of so-called ‘civil law contracts’ (CSRs for 2011, 2012, and 2014).³ An apparently direct appeal for deregulation is found in the recommendations of 2012, which stated: ‘Adjust employment protection legislation as regards permanent contracts in order to reduce labour market segmentation, in consultation with social partners and in accordance with national practices.’⁴ Furthermore, every year since 2012 the EU institutions have recommended adaptation of the minimum wage and also that other wage (growth) developments should support competitiveness and job creation. Notably, in 2014 it was added that they should also support domestic demand, while in 2015 it was requested that attention be paid to the role of allowances in light of the impact of in-work poverty, along with a review of the mechanism for setting the minimum wage. Like many other Member States, Slovenia received a further recommendation to take more steps to ensure the long-term sustainability of its pension system by linking the (effective) retirement age to life expectancy, but also by improving the employability of older

¹ Ticar (2014).

² Ibid. at 1.

³ See also Clauwaert, S., 2013, ‘The country-specific recommendations (CSRs) in the social field. An overview and comparison. Update including the CSRs for 2014–2015’, ETUI Background Analysis: <http://www.etui.org/Publications2/Background-analysis/The-country-specific-recommendations-CSRs-in-the-social-field.-An-overview-and-comparison-Update-including-the-CSRs-2014-2015> and in Clauwaert, S., 2013, ‘The country-specific recommendations (CSRs) in the field of health and safety at work and labour inspection services’, ETUI Background Analysis, <http://www.etui.org/Publications2/Background-analysis/The-country-specific-recommendations-CSRs-in-the-field-of-health-and-safety-at-work-and-labour-inspection-services>

⁴ See the European Commission’s recommendations and consolidated versions for the years 2011–2015 at http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm; for an overview see Clauwaert, S., 2015, at 114–115.

workers. Other recommendations were issued with regard to enhancing active labour market policies (for example, to address skills mismatches and reform the public employment service).

1. General overview of anti-crisis measures 2009–2015

In this section we look at how Slovenia's persistent economic difficulties have aggravated the negotiations on the adoption of increasingly stringent anti-crisis measures and have led repeatedly to grave political tensions.

1.1 Anti-crisis measures in 2009

Among several specific **anti-crisis measures, one to promote employment and secure jobs** was the Partially Subsidised Full-Time Work Act (Official Gazette of Republic of Slovenia, No. 5/2009), adopted on 14 January 2009. This is essentially a short-time working scheme, providing for the co-financing of wages for employers who have decided to reduce full-time work from 40 to 36 hours a week (under certain conditions and not to less than 32 hours a week) in order to save jobs. Employers who received subsidies remained obliged to pay wages to and social security contributions for those workers for whom the subsidies were granted. For as long as employers received such subsidies they were barred from dismissing workers for economic reasons and from introducing overtime work in the relevant business year. Other measures, implemented from June 2009, included partial reimbursement of wages paid to workers who meet the requirements stipulated by the legislation. If employed by firms that are temporarily unable (up to six months) to provide work for them, workers may be requested to 'remain at home and wait to be called in to work' while retaining the status of 'employed person'. Partial reimbursement for wage compensation (80 per cent of the previous wage) could hence be provided to employers based on the 2009 Partial Reimbursement of Wages Act. This Act would also cover the partial reimbursement of training expenses of workers 'waiting for work'. Employers were eligible for such subsidies if, due to economic difficulties, they could not provide work to at least 50 per cent of the workers. Also in this case the receipt of subsidies would entail a prohibition on dismissals for economic reasons and overtime work (for active workers). If an employee became unemployed despite the fact that they had been 'waiting for work' for over 12 months, the wage compensation that they had received during that waiting period would be considered in the calculation of their unemployment benefit. Similar measures were adopted or extended in 2010, with the aim of preventing (large-scale) redundancies as a result of the economic crisis. At the same time, the government increased the financial resources devoted to active labour market policies (ALMP), especially for programmes promoting the acquisition of new skills and higher qualification of workers.

1.2 Anti-crisis measures in 2011

More 'economic crisis intervention measures' were introduced subsequently. Parliamentary elections took place early, on 4 December 2011. Although originally scheduled for 2012, the social democratic Pahor government (SD) fell after a vote of no confidence on 20 September 2011.⁵ The elections were won by a new centre-left party, Positive Slovenia (PS). However, following more political tensions a new government was eventually formed by a right-leaning coalition of five parties, led by Janez Janša of the Slovenian Democratic Party (SDS).

1.3 Anti-crisis measures in 2012

Despite strong trade union opposition to the former government's plans to adopt a new temporary intervention act for the coming year and ongoing political tensions, a broad consensus was reached on the need for further anti-crisis measures. With the support of the majority of social partners, then, the new Parliament adopted the Act on intervention steps in light of the economic crisis for 2012 on 23 December 2011 (Official Gazette of the RS, No. 110/2011). The law aimed at freezing social transfers to individuals and households and the pensions and wages of civil

⁵ <http://www.rtslo.si/slovenija/foto-poslanci-izrekli-nezaupnico-vladi-boruta-pahorja/266631> (accessed 15 February 2016)

servants and public officials in the first half of 2012. Such temporary restrictions were calculated to achieve savings of between EUR 260 and 300 million.

Indeed, the broad consensus secured on further economic emergency measures following the 2011 elections marked a 'new trend' in Slovene industrial relations. It was based on a bargaining agreement between trade union and employer organisation representatives who used the framework of the tripartite Economic and Social Council to prepare proposals for the most important structural reforms. Commentators wondered to what extent this could be considered an interesting precedent in the Slovenian system of social dialogue.⁶ In fact, upon the government's invitation, the Economic and Social Council convened on 27 February 2012 to discuss further possible ways of dealing with the economic crisis. More concretely, it dealt with the government's draft Guidelines for the Social Agreement 2012–2017 and how the latter could contribute to helping Slovenia return to the path of development. The government envisaged that the future Social Agreement should cover the public finance framework, an efficient and economic state and public administration, sustainable economic growth, labour market and employment policy, wage policy, recognising know-how as a foundation for development and welfare adjusted to people's needs. The social partners in principle supported the conclusion of the Social Agreement. However, the employer side stressed the need for more labour legislation reform, while the union side expressed serious worries about a reduction of the autonomy of the social partners on the issue of wages. Further union objections concerned the inclusion of the so-called 'golden fiscal rule' in the Slovenian Constitution⁷ and the impact of the envisaged modifications on civil servants and the dilemma related to possible dismissals in the public sector.

Not surprisingly, the Guidelines for the Social Agreement 2012–2017 were signed on 5 April 2012 by the five employers' organisations but by only a few smaller trade unions. The majority of trade unions continued to hold back because they considered the proposed measures too interventionist and feared a significant reduction of certain civil servant rights. On the same day, the government approved the Act amending the Republic of Slovenia's Budget 2012 and the 2012 Implementation Act as a prerequisite to the enforcement and implementation of the national budget. It also presented several draft acts introducing 'austerity' measures (regarding economic intervention steps and amending several tax measures). Planned measures to downsize the public sector (by means of redundancies, employment termination when meeting retirement conditions, drastic reduction of wages) were still subject to further discussion. This led 20 public sector trade unions to announce strike action, planned for 18 April 2012.

1.4 Anti-crisis measures in 2013

Political tensions kept reappearing with persistent economic difficulties. The five-party coalition under prime minister Janša (SDS) fell apart in early 2013, following the difficult negotiations on the broad labour market reform plans (including the ERA and the Act on Labour Market Regulation). However, reluctant to call new elections the president then instituted a new government under Alenka Bratušek (PS) on 20 March 2013 to continue the ongoing legislative period.

With Slovenia's continuing economic difficulties, further budget cuts were soon targeted at unemployment cash benefits and maternity benefits. On 21 June 2013, the government proposed an emergency bill to that effect, which was subject to a shortened adoption procedure. The Act on Emergency Measures on the Labour Market and Parental Care (Ur.l.RS No. 62/2013- ZIUPTDSV) entered into force on 1 August 2013. Its declared purpose was to contribute to a 'balanced budget' through a temporary *reduction in the amount of cash benefits for unemployment* (by 3 per cent, but not falling below EUR 350). In a similar vein, *maternity benefits were capped* at twice the average monthly wage in Slovenia compared with a normal ceiling of two and a half times. The

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http://www.labourlawnetwork.eu/national%3Cbr%3Elabour_law/national_legislation/legislative_developments/prm/109/v__detail/id__1737/category__31/index.html (accessed 15 February 2016)

⁷ The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG, or the so-called 'Fiscal Compact', adopted on 2 March 2012, imposed on the signatories – including all EU Member States except the United Kingdom and the Czech Republic – a commitment to balance their budgets by legal requirement (ideally, through constitutional amendment). For an overview of the TSCG requirements, see <http://www.eubusiness.com/news-eu/finance-public-debt.ibt/>

measures were planned to remain in force for one year following a year in which economic growth exceeded 2.5 per cent of GDP.⁸

1.5 Anti-crisis measures in 2014

However, a year later Slovenia again found itself on the verge of economic crisis. Prime minister Bratušek resigned in early May 2014. She accepted political defeat after a difficult struggle to lead Slovenia out of the crisis (and cleaning up the country's financial system, groaning under an estimated 7.9 billion euros of bad loans, equivalent to more than a fifth of economic output) without having recourse to international/EU financial assistance.⁹ Therefore, on 1 June 2014 President of Slovenia Borut Pahor announced the dissolution of the National Assembly and called for early elections, to take place on 13 July 2014.

Following proposals by the government on 27 November 2014, Parliament accepted further amendments to the Act on Emergency Measures on the Labour Market and Parental Care (Official Gazette of the RS, No. 95/2014). Originally envisaged to last until the end of 2014, these emergency measures were extended until the end of 2016. Among the main justifications for this extension was the conviction that the Act could help to reduce *unemployment among young people*, one of the government's labour market priorities. The extended provisions, in fact, included an 'exemption from payment of employers' contributions' for employers who conclude employment contracts of indefinite duration with an unemployed person under the age of 30 who had been registered as unemployed for at least three months. The subsidy entails a waiving of the respective employers' contributions for pension and disability insurance, health insurance, parental insurance and insurance against unemployment for the first 24 months of the young person's employment.

1.6 Anti-crisis measures in 2015

Against this backdrop, the government finally reached agreement with the public sector trade unions on measures related to wages and other labour costs aiming to balance the public finances for 2015 (Official Gazette, No. 95/2014). For the implementation of the agreement, annexes to the public sector collective agreement were also concluded, alongside the adoption of further amendments to the Fiscal Balance Act in the Parliament's December 2014 session. Accordingly, Parliament adopted measures on public sector wages and other labour costs in the 2015 Act that temporarily limited the wages and labour costs of public servants in order to balance the state budget. At the end of 2015, the Slovenian Parliament approved more amendments to the Act on Emergency Measures on the Labour Market and Parental Care (Official Gazette of the RS, No. 90/2015).

2. Specific labour law reform: the acts on the labour market and on employment relations

2.1 Introduction

Within the context of counteracting the effects of the crisis, the government also took aim at employment legislation. Legislative reform, more concretely, aimed at tackling the following problems: the significant segmentation of the Slovene labour market, the reduction in employment and rise in unemployment, high unemployment among young people and low employment rates among older workers. On 16 June 2010, the government presented three bills on the labour market and labour relations. All these initiatives (the Act on Labour Market

⁸ In this context, it should be mentioned that Slovenia received two warnings from the European Commission by March 2014 for failure to transpose the revised Parental Leave Directive 2010/18/EU. The Slovenian government had presented the draft Parental Protection and Family Benefits Act on 10 October 2013. Parliament enacted the new law implementing the provisions on parental leave on 3 April 2014. Thereby, among other things, paid paternity leave was extended from 15 to 30 days.

⁹ <https://www.dnevnik.si/1042669463/slovenija/razpust-parlamenta-in-razpis-volitev-verjetno-ze-danes> (accessed 15 February 2016) 'Non-performing loans soared with the onset of the global financial crisis, when Slovenian exports, which are the main driver of the small economy, hit a wall.' See <http://www.reuters.com/article/us-slovenia-confidence-idUSBRE9AE05420131115> (accessed 15 February 2016)

Regulation, the Act on Employment Relationships and the Act on Mini-Jobs, to be discussed below) have subsequently altered Slovenian labour legislation significantly. The subsequent reform endeavours will be described separately for each act.

Labour market regulation in Slovenia is based on two main acts, the Act on Labour Market Regulation and the Employment Relationships Act. Both have been subject to fundamental reform in recent years to adapt national labour legislation to the idea of flexicurity to fight the crisis and labour market segmentation.

The *Act on Labour Market Regulation* was drawn up as a draft in June 2010, intended to replace the outdated and repeatedly amended Employment and Unemployment Insurance Act. The National Assembly adopted the Labour Market Regulation Act (ZUTD, Official Gazette, No. 80/2010,) on 28 September 2010, which was promulgated by the President on 6 October 2010. It sought to update and strengthen the legal basis for the implementation of state measures related to labour market services. These include the provision of active employment policy measures (ALMP, for example, occupational training of job seekers), the organisation of the unemployment insurance system and the rights deriving from statutory and voluntary unemployment insurance.

Slovenia's law on individual employment relationships is codified in the *Employment Relationships Act* (ERA) whose last major amendment dates back to 2002.¹⁰ Also several amendments to the ERA have been foreseen since the first draft for reform was presented in June 2010. As a general labour law act governing individual employer–worker relations, the ERA lays down fundamental general labour legislation standards. However, discussions surrounded the extent of reform needed, whether it would suffice to only introduce a few amendments or whether a more fundamental overhaul of the ERA was needed. Common recognition of the need to implement and ensure flexicurity in the existing system of labour relations in Slovenia provided the starting point for modifications. This conclusion was part of the recommendations advanced by a working group of experts in labour law (academics, judges, experts in human resource management) that provided advice in early summer 2010.¹¹ The government presented this report to the Economic and Social Council in December 2010, continuing the preparatory work to further concretise the planned amendments. However, little legislative progress was made in 2011 as political tensions around coping with the effects of the economic crisis took centre stage.

On 2 March 2012, following the December 2011 elections, the newly appointed Minister of Labour, Family and Social Affairs announced at a press conference that his priority would be the adoption of the new Employment Relationships Act by the end of the calendar year. In June 2012, the Minister informed the social partners about the most important issues proposed for inclusion in the new Act. At the time, the government envisaged the introduction of a so-called unified open-ended employment contract as one of the main novelties of the new act. The idea of a single contract has been much criticised in academic (labour law) circles, however. It, too, divided public opinion before the proposed amendments were even drafted. The idea received support from employers' representatives, but was rejected also by unions who considered that such a new unified contract type would not be the right solution to the problem of labour market segmentation. To them, it represented an attempt to dismantle worker protection.

In September 2012, the Ministry announced plans for a more comprehensive labour legislation reform, including renovation of the ERA and the Labour Market Regulation Acts. It published the planned amendments to both acts on 3 October 2012. On 5 October, the social partners opened the debate on these amendments. The proposals' main objectives were to render Slovenian labour regulation more flexible and to reduce labour market segmentation. Given the lack of a clear concept, however, employers' and unions' representatives straightforwardly opposed the introduction of the unified open-ended employment contract. Prime concerns in the social partners' discussions were how to cut labour costs by simplifying the procedure for terminating employment contracts and strengthening the legal status and improving the protection of temporary workers.

2.3 The 2013 Reform

¹⁰ Kresal (2006).

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http://www.labourlawnetwork.eu/national%3Cbr%3Elabour_law/national_legislation/legislative_developments/prm/109/v__detail/id__1110/category__31/index.html

On 5 March 2013, the National Assembly adopted the so-called '*labour market reform*', including the new Employment Relationships Act (ERA) and the amendments to the Labour Market Regulation Act. The legislative changes were intended to enhance internal flexibility, reduce labour costs and reduce labour market segmentation. They concerned fundamental features of dismissal protection for indefinite contracts, the regulation of fixed-term workers and temporary agency employment, as well as flexibilising the employment arrangements of older workers. The main modifications are as follows.

(a) Changes in dismissal law

- *Shorter notice periods*: The Slovenian regulation of notice periods (Article 92-94 ERA) provides for a minimum notice of 15 days for employment contracts up to one year and 30 days for contracts exceeding one year. These apply to notice given by either employer (termination for a business reason or reason of incompetence) or employee. For ordinary terminations by the employer where the employment has lasted longer longer notice periods are required:
 - Employment of two to 24 years: the 30-day notice period shall increase for each year of service with the employer by two days (up to a maximum of 60 days).
 - Employment of 25 years or more: The legal period of notice shall be 80 days (previously, 120 days), but a different notice period (no less than 60 days) may be specified by a branch collective agreement.
- *Reduction of severance pay*: The previous ERA provided for the incremental increase of severance pay according to length of service (one fifth of the basic wage for one to five years of employment, one quarter for five to fifteen years and one third for employment longer than 15 years) for dismissals due to business reasons or the worker's incompetence. The wage basis is calculated based on the average monthly wage received in the last three months before termination. The new ERA (Article 108 ERA) has decreased the entitlement to severance pay as follows:
 - for employment of between one and 10 years: one fifth of the basic wage; and
 - for 10 to 20 years of service: one quarter of the basic wage.
- *Simplification of dismissal procedures*: The new legal regulations also refer to employment termination with an offer of new suitable employment (Article 91 ERA), simplification of the employee protection procedure (Article 85 ERA), regulation of serving notices of cancellation of employment (Article 88 of the ERA) and the option suspending the employment contract cancellation only for workers' representatives (Article 88 ERA).¹²
 - *Damages in lieu of reintegration*: If prolongation of an employment relationship cannot be reasonably demanded from the contracting parties following a ruling of unlawful dismissal, a judge may award the employee financial compensation instead of reintegration (return to work) (Article 118 ERA).
 - *Obligation of activation during notice*: The new ERA (Article 97, Article 13 Act on Labour Market Regulation) now requires employers to allow dismissed workers one day per week during their notice period to integrate into job seeking activities. They are to compensate the workers with 70 per cent of their wage for these days of absence, for which they will be reimbursed by the public employment service.
 - *Extension of constructive dismissal*: The new ERA also widens the grounds on which workers may legally terminate their employment contract due to the misconduct of their employer and be entitled to severance pay. Besides the existing reasons, including failure or delay of regular wage payments, the legislation now covers an employer's failure to pay social security contributions (for three consecutive months or in a period of six months). The affected employees are required to pursue legal proceedings regarding the employer's failure to honour the rights concerned.

(b) Fixed-term employment

- *Objective reason for concluding fixed-term contracts*: The new law now requires the inclusion of an objective reason for concluding a fixed-term contract in the employment contract itself.
- *Temporary limitations*: Signing one or more successive fixed-term contracts for an uninterrupted duration of more than two years for the same work is now prohibited (except for specified exceptions). In cases of staff changes, temporary contracts for the purpose of

¹² Ticar (2014) at 4.

handing over working tasks may only be concluded for a maximum of one month. (Article 55 ERA) The maximum length of two years is considered to relate to the temporary nature of the activities rather than to the person of the worker.¹³

- *Legal presumption of conversion*: If fixed-term contracts are found to violate any of the above conditions, they will be considered contracts of indefinite duration.
- *Provisions on termination/severance pay*: The ERA provides for a new right to severance pay for fixed-term workers upon the expiry of their contract. For contracts of up to one year, it amounts to one fifth of the average monthly wage for full-time employment in the last three months. Workers with contracts that last longer than one year are entitled to severance pay of one fifth of average monthly wages for the first year of employment plus a proportionate share for each additional month of service. The severance pay for fixed-term workers is not due, if these workers continue work with the same employer based on a permanent contract or if they have refused to sign such a contract of indefinite duration which was offered to them.
- It is also noteworthy that alongside the amendment of the ERA, another legal act now stipulates *higher employer contributions to the unemployment insurance* for those who hire based on fixed-term contracts.

(c) Temporary agency employment

- *Restrictions on agency work*: The number of agency workers assigned to a user undertaking may not exceed 25 per cent of the employed workforce of that undertaking (Article 59 ERA). To allow for a transitional period, the numerical restriction would only be effective from April 2014. Small employers (SMEs) with ten or fewer staff members are not affected by this limitation.
- *Conditions of assignment to a user undertaking*: Assignments based on fixed-term contracts are to be more clearly linked to a temporary reason for the worker's deployment to the user. Also, users' possibilities of having temporary agency workers perform the same work tasks are circumscribed, as is their working time.
- *Contracts of indefinite duration with the agency*: The conclusion of contracts of indefinite duration between temporary work agencies and workers is encouraged. The law excludes such permanent agency workers from the imposed quota (25 per cent) limiting user undertakings in (temporarily) expanding their workforce through agency employment. In principle, this means that user undertakings may hire as many agency workers as desired, as long as these workers are permanently employed by their agencies.

(d) Internal flexibility measures

- The new ERA allows employers to assign other work to an employee within the framework of the same employment relationship (Article 33). It defines the situations and the conditions for such reassignment. The employer may only change the worker's function/working activities if it is for the purpose of securing employment or ensuring an uninterrupted labour process. The other work must be suitable and paid more favourably and reassignment must not last longer than three months. Notably, small employers are allowed broader options of worker's internal reassignment to suitable work.
- Initially adopted as an emergency measure in 2009, the option of 'temporary lay-off' has now been codified in the ERA. This means that workers' employment contracts can be made inactive for up to six months per calendar year, while receiving an 80 per cent wage compensation (Article 138 ERA).

(e) Changes in labour dispute procedures

- In case of a violation of Slovenian labour legislation, employees must first address a request to the employer before seeking legal remedies. They may proceed to court, if the employer fails to comply with their obligations or remedy violations within eight days of receiving the worker's request.
- This right of workers to seek legal redress from a competent court expires after the following 30 days. This temporary limitation is waived for certain cases, such as the unlawful termination of the employment contract.

¹³ Ticar (2014) at 7.

- Workers’ financial claims vis-à-vis employers (to be recovered by legal proceedings) expire after five years after their occurrence. The amended law broadens the possibilities for non-judicial mediation (arbitration).
- The new ERA applies more severe sanctions for violations pertaining to workers’ financial entitlements and clarifies sanctions for violations concerning the prohibition of discrimination and harassment by users to the detriment of temporary agency workers.

(f) Derogations by collective agreement

- The new ERA also seeks to increase the responsibility of the social partners in regulating employment relationships by allowing deviations from legislative provisions (including, in some cases, to the detriment of workers) by collective agreement.
- Such opening clauses can be found with regard to: temporary assignment to other suitable or adequate work (Article 33), stipulation of other examples of fixed-term employment contracts (Article 54), determining quotas concerning temporary agency workers (Article 59), longer notice period if workers demand termination of employment contract (Article 59), the introduction of traineeships (Article 120), conditions for entitlement to severance pay on retirement and its amount (Article 132), average limitation of overtime work (Article 144), different arrangements concerning working hours (Article 158), disciplinary sanctions (Article 172) and the determination of seniority bonus (Article 222).¹⁴

(g) Additional novelties

- *Prevent abuse in the transfer of undertakings*: In order to prevent fraud in enterprise restructuring (using reorganisations as a cover to circumvent labour legislation, for example, through ‘straw undertakings’) the amended ERA introduced joint liability of the transferor for workers’ pecuniary claims.
- *Paid annual leave*: The new ERA clarifies the Slovenian legal provisions on paid annual leave in line with European legislation.

Under the second pillar of the fundamental Slovenian Labour Market Reform in 2013, the Act on Labour Market Regulation was amended. This puts the spotlight on broader reform efforts to increase the activity rates of older workers:

- *Casual work of retired persons outside labour law protection*: A new chapter XI on the temporary and casual work of pensioners has been introduced. Such measures were originally foreseen in the Mini-Jobs Act of 2010, which was rejected in a referendum. The law defines the eligible temporary or occasional work which shall be limited to 60 hours within a calendar year and the permissible earnings are limited to up to EUR 6,000 annually (also depending on the size of the employer). It thereby creates a special civil-law relationship, targeted at retired persons, which may include some elements of an employment relationship but is formally excluded from the realm of general labour legislation.
- *Decrease in labour protection for older employees*: The entitlement to special lay-off protection for workers has slowly increased in relation to age. The new ERA takes into account the rise of the retirement age, as envisaged by the (reformed) retirement legislation. It now confines entitlements to special lay-off protection more strictly, limiting such options for workers aged 58 years and older. It thereby seeks to encourage the employment of older employees despite their (approaching) pension entitlements.
- *Temporary incentives for employment of older unemployed persons*: On 22 September 2015, the government issued a new draft of the Act on Emergency Measures on the Labour Market and Parental Care and forwarded it to Parliament. The amendments aim to contribute to faster and more stable employment of older workers. They provide for exemptions from employer social insurance contributions (for the first 24 months) for enterprises that employ persons aged 55 years and older and who have been registered as unemployed for at least six months. The measures are envisaged to run until the end of 2017.

On 21 June 2013, the government issued further amendments to the Act on Labour Market Regulation. These were up for discussion in the Social and Economic Council before being passed

¹⁴ Ticar (2014) at 11.

to Parliament. However, as it was adopted as an urgent measure together with the abovementioned Act on Emergency Measures on the Labour Market and Parental Care, also in this case a shortened procedure for the act's adoption would apply. The amendments of the Act on Labour Market Regulation of 2013 proposed a reduction of employers' taxes when providing temporary or occasional work for pensioners (a cut from 25 to 3 per cent of the wage for such work). This was to ensure that this form of work remains a viable option for employers. On 3 October 2013, the government adjusted and reaffirmed its plans to amend the Act on Labour Market Regulation (Official Gazette, No. 21/2013). The Acts Amending the Act on Labour Market Regulation (the ZUTD-A and ZUTD-B) to increase the flexibility of the labour market seem to have been adopted in the same year.¹⁵ In late 2013, the Act on Labour Market Regulation was amended for a third time in that year based on similar intentions (Official Gazette of the RS, No. 100/2013-ZUTD-C):

- It envisaged extending, under certain conditions, the concession to carry out labour market services (lifelong career orientation, employment brokerage) to trade union (con)federations and employers' organisations with nationwide representative status.
- It also introduced more stringent conditions to avoid abuses in the temporary agency employment sector. Within that context, the term 'posting workers to user undertakings for work' has been redefined and additional conditions for the pursuit of the activity been determined. A novelty was envisaged by introducing a permit for temporary work agencies. In the case of transnational posting, the entry into the register/records (for employers established in EU Member States) of those legal persons or natural persons who would like to pursue such an activity in Slovenia would be made conditional on the possession of such a permit. Deletion from the register or record would be a possible sanction for breaching the regulations. Also, new fines were proposed by the draft Act.

The Slovenian labour market is characterised by the *forms of casual work* that cannot be treated as regular employment relationships owing to the framework within which they are performed. Young and old workers are particularly affected. So-called student services – agencies founded by student associations and universities – hitherto fell under the Employment and Unemployment Insurance Act. However, as indicated above, this was replaced in 2010 by the Act on Labour Market Regulation. Article 192 of the latter provides that the earlier provisions on the brokerage of temporary and casual work to secondary school pupils and students would be regulated in a special act. The need to improve regulation of so-called '*student work*' has repeatedly also caught the attention of the European Commission in the context of its recommendations to reduce labour market segmentation in Slovenia.

The legislator at first sought to regulate these casual working relationships uniformly. Following its proposal in June 2010, the *Act on Mini-Jobs* was adopted on 10 April 2011. The law provides a definition of casual work, or so-called 'mini-jobs', in the sense of paid temporary, casual or short-term work performed by university students and pupils, retired persons, unemployed persons or other non-active persons. It regulates these work relationships by imposing a limit on both allowed working time (generally, a maximum of 60 hours per month; for students up to 720 hours per year) and earnings (a maximum of 6,000 EUR per year). Although they are excluded from Slovenian labour law, persons performing a mini-job shall be entitled to social insurance rights.

However, serious objections from trade unions and the general public led to a referendum in 2011, in which the majority voted against the Act on Mini-Jobs. At present, only few provisions are included in the Labour Market Act that can be applied as a legal basis for student work.

On 3 February 2014, the government launched another attempt at reform. This time the minister, together with a representative of the National Students Association, presented a bill on the temporary and occasional work of students (secondary school students, university students). The *draft Act on the Temporary and Occasional Work of Students* was then submitted to public consultation and opened for public comments until 3 March 2014. In contrast to the Mini-Jobs Act, which covered different types of casual work and different groups of workers, the newly proposed legislation was to apply exclusively to student work. It sought to encourage such work as a means to promote contact with the labour market among young people (preferably linking it with the type of education) and the possibility to earn additional money.

¹⁵ See the Government of the Republic of Slovenia, National Reform Programme 2014–2015, at 14. Available at: http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_slovenia_en.pdf

However, despite a repeated EU recommendation to address the problem, in July 2014 the Slovenian government seemed to consider that integral reform was either no longer necessary or that the proposed measures sufficed as incentives to decrease labour market segmentation. Based on another agreement with student representatives, the government submitted proposed amendments to the *Act on Fiscal Balance* (Official Gazette, No. 24/2005-officially consolidated text) to the Parliament. The amended Fiscal Balance Act (Official Gazette, No. 94/2014) on student work became effective on 1 February 2015. It sets minimum pay for student work per hour at EUR 3.80 (compared with EUR 4.50 in the proposed draft amendment). Also new is that students shall from now on be included in the old age and invalidity insurance and health insurance scheme. While the amendments raise labour costs for employers, student work will remain one of the cheapest forms of work. Hence, it is questionable whether the measures will be effective in reducing the existing segmentation of the labour market or unfair competition. It is noteworthy, however, that student work no longer figured in the European Commission's country-specific recommendations for 2015.

Finally, the Slovenian government has also aimed at improving the *enforcement of labour legislation*.¹⁶ Legislative endeavours to that end are briefly sketched to illustrate the legislator's evident interest and repeated efforts in *limiting the informal employment sector*. In July 2013, the government proposed more comprehensive initiatives to supervise the correct functioning of the labour market. It proposed further amendments to the legislation on undeclared work and a new draft of the Act on Labour Inspection (ZID-1). Parliament enacted the amended Act on the Prevention of Undeclared Work and Employment on 24 April 2014. It represents one of the government's priority measures intended to reduce the grey economy. The Act seeks to prevent abuses by means of clearer legal definitions and introduces greater competences for supervisory bodies with regard to undeclared work (to render the work of these bodies more effective through clearer terminology and legal definitions, administrative simplification and the capacity to impose stricter sanctions on offenders). The newly created General Financial Office, which merged the General Customs Office and the General Tax Office, began operating on 1 August 2014. Complementarily, the new Act on Labour Inspection (Official Gazette of the RS, No. 19/2014 – ZID-1) was issued to improve the regulations on the organisation, competences and tasks of the Labour Inspectorate, the authorisations of labour inspectors, the inspection procedure and the measures taken by labour inspectors. Most provisions became applicable from 18 August 2014. Further measures to tackle shadow employment entered into force on 1 January 2015. These included the Rules on Personal Supplementary Work, adopted by Parliament on 19 December 2014 (Official Gazette, No. 94/2014).

Last but not least, Parliament adopted important *amendments to the Minimum Wage Act* (Official Gazette, No. 13/2010) on 17 November 2015. The minimum wage represents payment for 'regular' work. The original draft of these amendments had been deposited by the seven trade union federations on 10 September 2015. Under the 2010 Act, workers were entitled to equal pay (minimum wage) based on the distribution of working time, regardless of special working conditions. The unions complained that the definition of minimum wage violated the principle of equal pay for work under equal working conditions. They proposed including a new paragraph providing that additional payments for night work, work on Sundays and work on public holidays, as well as work-free days shall not be included in the minimum wage. Changes to the legislation were eventually adopted because they had received both the support of the government and over 11,000 signatures, collected by the unions in accordance with the Referendum and the Popular Initiative Act. It is possible, however, that the National Council, the representative body for social, economic, professional and local interests, may request that parliament (the National Assembly) take another look at the Minimum Wage Act prior to its promulgation, as there is strong opposition by the employers to the amendments of the Act. At the end of 2015, the employers' organisations officially withdrew from the Social Agreement 2016–2017, signed on 2 February 2015, to underline their disagreement with the legislative amendment.

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¹⁶ Following a rejection of amendments by referendum on 5 June 2011, the National Assembly adopted an amended Prevention of Undeclared Work and Employment Act (Official Gazette No. 36/2000, 118/2006, 54/2012) on 26 July 2012. The amendment sought to bring Slovenian legislation in line with the obligations arising under European directives on the illegal employment of irregular migrants and the equal treatment between men and women in self-employment.

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- Planet Labor: <http://www.planetlabor.com> (reference period 2010–2016)
- EIROOnline: <http://www.eurofound.europa.eu/eiro/> (reference period 2010-2016)
- Epsucob@NEWS – Collective bargaining in public services: <http://www.epsu.org/> (reference period 2011 - 2016)
- ETUI-AIAS Collective Bargaining newsletter:
<http://www.etui.org/E-Newsletters/Collective-bargaining-newsletter> (reference period 2010–2016)
- ETUC website section on economic and social crisis:
<http://www.etuc.org/r/1378>
- ETUI website section on crisis:
<http://www.etui.org/Topics/Crisis>
- European Labour Law Network website section on Labour Law Country Reports/National Legislation – country profile Slovenia:
<http://www.labourlawnetwork.eu/> (reference period 2013-2016)
- Slovenian Ministry of Labour, the Family, Social Affairs and Equal Opportunities website
<http://www.mdds.gov.si/en/>
- ISLSSL Regional Congresses website, section 'EUROPEAN REGIONAL CONGRESS XI: DUBLIN (IRELAND), 17-19 SEPTEMBER 2014', conference papers:
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