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## INNOVATION AND GROWTH OF SKILLS: CHALLENGES TO THE CROATIAN LEGISLATURE

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### Summary

*This paper analyses the strategic and legislative framework of innovation and growth of skills in Croatia. Emphasis is placed on the life-long learning system, especially the legal duty of the employer to education and training of his or her employees. The paper will present the results of the research carried out in the scope of the scientific research project Flexicurity and New Forms of Employment about the issues of flexicurity, atypical and new forms of employment, as well as the respective opinions of the employers operating in several branches and trade-unions. Finally, the author analyses different active labour market policy measures directed to the growth of skills and innovations.*

**Keywords:** *innovations; employee's skills; Croatia; flexicurity; life-long learning; employers; trade-unions.*

### 1. INTRODUCTION

European Union is strongly oriented toward innovation, research and development as the basis to increase competitiveness and employment. Research and innovation are considered a “key component of thematic policies”: the Digital Single Market, development of new, clean technologies, EU as a stronger Global Actor... As the science plays a critical role, it is necessary to improve interactions between science and policy.<sup>1</sup>

Innovations and development are the key words of different strategies and programmes in Croatia. Yet, in comparison with other EU Member States such as

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1 Juncker, J-C., Foreword, in: European Commission, *Open Innovation, Open Science, Open to the World – a vision for Europe*, p. 5, available at: <https://publications.europa.eu/en/publication-detail/-/publication/3213b335-1cbc-11e6-ba9a-01aa75ed71a1>; accessed 6.11.2018.

the Netherlands,<sup>2</sup> in Croatia different actors still have to do much more regarding innovation, despite some promising, world-wide known examples of entrepreneurship, such as Rimac Automobili d.o.o.

Strengthening the Croatian innovation system and innovation potential of the economy is one of the measures towards achieving the main objectives of the Europe 2020 Strategy.<sup>3</sup> According to Eurostat, the share of investments in research, development and innovation in the GDP in Croatia in 2016 amounted to 0.85%, whereas the aim is 1.4%. This represents a slight increase compared to 2015 when it was 0.84% and compared to 2014 when it was 0.78%.<sup>4</sup> In 2016 small and medium-sized enterprises (SMEs) continued with the implementation of the new research and development (R&D) funding model developed for the period 2013-2015 that focuses on the allocation of multi-annual funds from the state budget (total funds of HRK 50 million per year, approximately 6,666 million EUR).<sup>5</sup> Different programmes provide funding for SMEs and public science institutions, encouraging commercialisation of research results, collaboration between the scientific community and the business sector and the establishment of knowledge-based enterprises.<sup>6</sup>

Nevertheless, according to the report of the European Innovation Union Scoreboard for 2017 and 2018 Croatia is at the 26<sup>th</sup> place as the last country in the group of “Moderate Innovators” (just before Romania and Bulgaria, as “Modest Innovators”). This is a corollary of the above mentioned small share of investments of the business sector in research and development; lack of technologically relevant enterprises and systematic and efficient innovation policy, as well as the complexity and fragmentation of the innovation system.<sup>7</sup> According to the EC, the efficiency of the R&I system “lags behind that of other EU Member States... This is largely due to scarce public investment in R&D but also to a fragmented landscape of higher education institutions, a lack of incentives for researchers’ careers and a significant neglect of the relevance of internationalising Croatia’s science and innovation arena.”<sup>8</sup>

2 See: Pennings, F., Encouraging growth of skills and innovation in the Netherlands, in this issue of Zbornik Pravnog fakulteta Sveučilišta u Rijeci.

3 European Commission (EC), Europe 2020 Strategy, available at: <<http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>>; accessed 10.6.2018.

4 Eurostat, available at: <[http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=t\\_2020\\_20&plugin=1](http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=t_2020_20&plugin=1)>; accessed 10.3.2018.

5 National Reform Programme 2017, Government of the Republic of Croatia, April, 2017, p. 75, available at: <https://vlada.gov.hr/UserDocsImages/Europski%20semestar/NRP%20HR%202017.pdf>; accessed 10.3.2018.

6 In 2016 and 2017 the implementation of PoC, RAZUM, IRCRO and UTT programmes by HAMAG-BICRO continued, the projects financed by loan from the International Bank for Reconstruction and Development, within the framework of the Second Technological Development Project (STPII), within the competence of the MSE.

7 European Commission, European Innovation Scoreboard 2018 (EIS 2018), p. 7, available at: <<https://ec.europa.eu/docsroom/documents/30233>; ETAY18001ENN.pdf>; accessed 10.3.2018. Compared to 2016, Croatia is among 10 Member States in which performance declined, and together with Romania (14.8%) has the strongest declines (13.1%). The EU average increased by 2.4% between 2016 and 2017. *Ibid.*, p. 23.

8 European Commission, Brussels, Commission Staff Working Document, Country Report

In order to overcome the underlined problems and encourage private sector investment in research, development and innovation as well as enable continuous entrepreneurial discovery and innovation dialogue between the public, business and scientific research sectors, different activities have been undertaken. To give an example, the National innovative council has been recently established as a body that should promote a uniform innovation policy system in Croatia.<sup>9</sup>

The labour law legislation represents one of the bases for an efficient system of innovations, development and the growth of skills. In the following sections the author analyses the existing Croatian regulatory framework for innovations and growth, illustrating examples of R&D in practice, the organization of the labour market (including life-long learning system, flexibility approach, labour market trends and active labour market policy (ALMP) measures), giving proposals *de lege ferenda*.

This paper presents the results of the research carried out within the project *Flexicurity and New Forms of Employment (the Challenges Regarding the Modernization of Croatian Labour Law)*,<sup>10</sup> especially the results of the questionnaire filled out by employers and trade unions. They are supported by the results of the individual interviews that the author carried out with employers and trade unions. Emphasis is placed on several branches of economic activity considered important for the Croatian economy.

## **2. REGULATORY (STRATEGIC AND LEGAL) FRAMEWORK FOR INNOVATIONS AND GROWTH**

In general, the Croatian regulatory framework for innovations is based on different national strategic documents adopted in line with the Europe 2020 Strategy and other EU instruments. Lately, there has been an increase of such strategies which is a sign of good will and high expectations.

The Croatian Ministry of Economy, Entrepreneurship, and Crafts has drafted and is responsible for the realization of the Encouraging innovations' Strategy 2014-2020.<sup>11</sup> This Ministry is responsible for the Strategic Project for support of establishment of Innovation Network for Industry and Thematic Innovation platforms (Project INI), carried in partnership with the Croatian Chamber of Economy (CCE), and co-financed by the European Regional Development Fund (with 85%). The main purpose of the Project is to create an efficient and self-sustainable support framework and encourage private sector investment in research, development and

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Croatia 2018 Including an In-Depth Review on the prevention and correction of macroeconomic imbalances, 7.3.2018

SWD(2018) 209 final (hereinafter: EC, Country Report Croatia 2018), p. 43, available at: <<https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-croatia-en.pdf>>; accessed 2.6.2018.

9 Nacionalni program reformi 2018, pp. 64, 65, available at: <<https://ec.europa.eu/info/sites/info/files/2018-european-semester-national-reform-programme-croatia-hr.pdf>>; accessed 12.05.2018.

10 See more at: [www.pravri.hr/fleksinora](http://www.pravri.hr/fleksinora).

11 Strategy 2014-2020, Official Gazette (OG), no. 153/2014.

innovation as well as raise awareness of the importance of R & D and innovation in the business sector to identify new potential for industrial growth and job creation, improve competitiveness, modernize and diversify the Croatian economy. This can be achieved, by, among others, the establishment of an institutional platform for R & D that will enable continuous entrepreneurial discovery and innovation dialogue between the public, business and scientific research sectors, i.e. companies and the scientific and research community. In line with the Strategy for Promoting Innovation of the Republic of Croatia 2014-2020, it is envisaged that further development of the National Innovation System (NIS) will lead to the establishment of a stable framework for cooperation between the public sector, research and development and industry, which has not been the case so far. The ultimate result of this Project is the establishment and operational functioning of Innovation Network for Industry.

By establishing thematic innovation platforms, support will be given to the work of the established Innovation Council for Industry, with the aim of coordinating all stakeholders of the innovation system, with special and primary focus on the business sector. That is expected to effectively shift the focus of the Croatian economy to knowledge-based activities and use of the existing territorial capital including resources, tradition in industrial production, and the innovation and creativity of innovation chain members.<sup>12</sup>

An important role in fostering innovations and growth is given to state aid for research and development projects. The Act and Ordinance on State Aid for Research and Development Projects has been adopted recently.<sup>13</sup> It will regulate conditions for granting state aid in this field (in the horizontal aid category for R&D and innovation). This state aid is envisaged as “a right to further reduced profit tax base for justified costs of research and development projects of taxpayers who are classified into the categories of underlying research, industrial research and experimental development ... with the goal ... to increase private sector investments in research and development, and ultimately increase overall R&D investments, i.e. contribution to achieving the strategic goal of 1.4% of GDP by 2020.”<sup>14</sup> It should affect the efficiency of granting state aid and increase the number of beneficiaries, and consequently increase the investments in the development of new products and value-added services, as well as competitiveness on the global market and exports. The unfavourable position of SMEs on the market, as well as the great potential for cooperation between the scientific-research institutions and the economic sector are targeted by the state aid measure. Even though it is possible to conclude that the results of such projects and large investments remain uncertain, they are considered instrumental in creating new jobs.

12 <[http://www.ciraz.hr/en/projekt-ii/o\\_projektu/](http://www.ciraz.hr/en/projekt-ii/o_projektu/)>; accessed 12.05.2018.

13 Zakon o državnoj potpori za istraživačko-razvojne projekte, OG, no. 64/2018.

14 National Reform Programme 2017, op. cit., p. 76; Nacionalni program reformi 2018, available at: <<https://ec.europa.eu/info/sites/info/files/2018-european-semester-national-reform-programme-croatia-hr.pdf>>; accessed 12.05.2018. According to Tax Act data, beneficiaries of state aid for research and development projects realised a total of HRK 124 million in tax relief in 2014. <<https://vlada.gov.hr/UserDocsImages/Europski%20semestar/NRP%20HR%202017.pdf>>, accessed 10.3.2018.

### **3. POSITIVE EXAMPLES – SCIENCE AND TECHNOLOGY PARK OF THE UNIVERSITY OF RIJEKA (STEP RI)**

Despite the not so favorable environment for innovations, there are some promising, even world-wide known examples of entrepreneurship and innovations. One of them, *Rimac Automobili d.o.o.* has been gaining momentum with its new electric battery that was produced for the car of the newly-wed British royal couple, and the most recent investment to the company made by Porsche. It is expected that within 2 years this company will employ 1.200 workers.

Another positive case of synergy between business and universities is found in the City of Rijeka. The Step Ri Science and Technology Park of the University of Rijeka (Step Ri) was established in 2008 by the University of Rijeka in order to become the unique science and technology hub, facilitating the commercialisation of R&D and fostering cooperation between the scientific community and industry. It is a widely recognised centre of innovative and entrepreneurial support infrastructure of the Ministries of Economy and Entrepreneurship and Crafts in Croatia, a partner in the Proof of Concept programme organised by the Croatian agency for SMEs and investments (HAMAG-BICRO), as well as a major regional provider of business know-how. Step Ri has been participating in several EU and nationally funded programmes and U.S. State Department grants and has gained experience in project management, procedures and regulations.<sup>15</sup> Step Ri Park offers the members of the University of Rijeka's academic community valuable support in marketing application of knowledge, innovations and inventions, their licencing and development of products and services based upon them; assists in establishing start-up companies, whether autonomously or in co-operation with the University. As a hub of science and economy, Step Ri is the starting point in finding a partner in economy that needs knowledge and research-analytical capacity of the University. Apart from offering the basic business and incubation services, the Step Ri Science and Technology Park of the University of Rijeka offers innovation management consulting.<sup>16</sup>

Located in a modern, recently renovated building at the Campus of the University of Rijeka, Step Ri provides state-of-the-art work space (for offices and laboratories, but also fully equipped multimedia facilities) combined with integrated business support and internationalisation services. In 2016, 28 companies – tenants of the Step Ri Park had 334 employees and exported goods and services in the value of more than 55 million kuna (approximately 7,33 million EUR).

Rijeka is a city with an excellent geographic location at the Northern Adriatic coast. Its long industrial tradition has been, unfortunately, (almost) destroyed in the last three decades, due to the processes of privatization and unsuccessful management. The big metal industry companies (Torpedo, Rikard Benčić, Vulkan, etc.) and shipowner Croatia Line filed for bankruptcy. Recently, the business of one of the oldest Croatian shipbuilding companies *3. maj* has been jeopardised, while the shipyard *Viktor Lenac*, after a long period of business difficulties, managed to find an escape route by focusing

<sup>15</sup> <<http://www.step.uniri.hr/en/about-us/>>; accessed 13.05.2018.

<sup>16</sup> Ibid.



on special ship overhauls... Therefore, any idea of innovation is most welcome from the perspective of Rijeka's economy.

In the last 20 years in Croatia numerous companies in almost all branches have undergone restructuring, that led to thousands of redundancies. At the same time, unemployment benefits are low, and do not guarantee any economic security, as opposed to other countries, such as the Netherlands ...

Asked to express their opinion about more flexibility in exchange for more security, the interviewed trade unions in Croatia voiced firm opinions against more flexibility, while employers still deem Croatian employment legislation too rigid.

#### **4. THE ORGANIZATION OF THE LABOUR MARKET**

##### **4.1. Croatian labour market trends, labour force demand and employment**

The available statistical data about labour market trends indicate that 2016 and 2017 were good years for Croatia marked by positive economic trends, and a Gross Domestic Product growth of 3.2%, resp. 2.8%. After several years of oscillating growth, the trend in registered employment finally shifted in 2016 and continued in 2017 and 2018. The changes mainly refer to a strong decrease in the number of unemployed persons and unemployment rate and a slight increase in the number of employed persons. In February 2018 the registered unemployment rate was 12,3% and the surveyed unemployment rate 10,9% (Oct-Dec 2017) comparing to 7,3% for EU 28. The largest decrease of unemployment was recorded in younger age groups: persons aged 15 to 19 – 29.1% and 20 to 24 – 24.4%). Regarding the level of education, in 2017 the number of unemployed persons with no education or unfinished elementary school amounted to 6,2% (11.997); the unemployed persons who finished elementary school 20,6% (39.775); the unemployed persons who finished a three-year secondary school 30,1% (58.474); the unemployed persons who finished a four-year vocational secondary school or grammar school 28,2% (54.744); the unemployed persons with undergraduate university or post-secondary non-university 6,4% (12.415), while those with graduate/post-graduate university or academy education amounted to 8,5% (16.562).<sup>17</sup>

According to the latest EU Labour Force Survey (LFS), in 2016 there was a total of 1,599.000 employed (a drop of 10,2% comparing to the pre-crisis level in 2008 when there were 1,780.000 employed)<sup>18</sup> and 240,000 unemployed persons in 2016. The employment rate of population aged 20-64 increased from 60.5% in 2015 and 61,4% in 2016 to 63,6% in 2017. The average LFS-based unemployment rate amounted to 11.1% in 2017, thus declining compared to the previous two years (from 13.4% in 2016 and 16,1% in 2015). The youth unemployment rate amounted to 31,1%

17 Croatian Employment Service (CES), 2017 Yearbook, pp. 14ff, available at: <<http://www.hzz.hr/UserDocsImages/YEARBOOK%202017.pdf>>; accessed 1.6.2018.

18 <[http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Employment\\_statistics\\_within\\_national\\_accounts#Employment\\_at\\_highest\\_level\\_in\\_persons\\_but\\_still\\_under\\_pre-crisis\\_level\\_in\\_hours\\_worked](http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Employment_statistics_within_national_accounts#Employment_at_highest_level_in_persons_but_still_under_pre-crisis_level_in_hours_worked)>; accessed 28.4.2018.

in 2016 (comparing to 42,3% in 2015 and 44,9% in 2014).<sup>19</sup>

Croatia was among the countries (with France, Spain and Poland as well as the candidate countries Montenegro and Turkey) with the highest overall proportion of persons in precarious employment relations (having a work contract of only up to 3 months).<sup>20</sup>

Here we can observe a continued growth in labour force demand in most areas of activity and in a large number of counties. In 2017, the employers reported 25,0216 vacancies to the CES, which represents a 7.7% increase compared to 2016.<sup>21</sup> On a monthly basis, e.g. in March 2018, the employers reported 25,461 job vacancies (and for the Januar – March: 75,672).<sup>22</sup> However, after a positive growth in the past several years, registered employment, i.e. the number of persons from the CES Unemployment Register who found employment during the year, decreased in 2017 by 10.1% compared to 2016 (in total 196,820 persons). In 2017, 90.4% of unemployed were employed on an employment contract basis (177,875) and 9.6% on the basis of engaging in other business activities (vocational training for work without an employment contract, starting a company or a sole proprietorship, signing a temporary service contract etc.) (18,945). It should be emphasized that compared to 2016, both the number of persons employed on the basis of an employment contract and those employed on the basis of engaging in other business activities decreased (the former by 9.7%, the latter by 13.0%).<sup>23</sup>

It is worth mentioning that seasonal employment of unemployed was especially important in 2017 because it accounts for 20.4% of the total number of persons from the CES unemployment register employed on a work contract basis (36,288 persons, comparing to 40,682 in 2016, what represents a decrease in the number of seasonal workers of 10.8%). The largest number of seasonal workers was employed in accommodation and food service activities (58.2% of the total number). Most seasonal workers came from the coast (63.3%) and Slavonian (22.0%) counties, while the north-western and central regions of Croatia accounted for a relatively small share in seasonal employment (14.3%).<sup>24</sup>

19 <[http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Unemployment\\_statistics#Main\\_statistical\\_findings](http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Unemployment_statistics#Main_statistical_findings)>; accessed 28.4.2018.

20 <[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa\\_qoe\\_4ax1r2&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_qoe_4ax1r2&lang=en)>; accessed 28.4.2018.

21 The major share of new job vacancies was reported by employers: in manufacturing (36,550 or 14.6%), accommodation and food service activities (35,330 or 14.1%), in wholesale and retail trade (28,921 or 11.6%), construction (22,238 or 8.9%), education (25,583 or 10.2%), public administration and defence (21,119 or 8.4%) and human health and social work activities (20,596 or 8.2%). CES, 2017 Yearbook, op. cit., p. 21.

22 CES, available at: <<http://www.hzz.hr/default.aspx>>; accessed 21.4.2018.

23 Croatian Employment Service (CES), Yearbook 2018, p. 7-8, available at: <<http://www.hzz.hr/UserDocsImages/YEARBOOK%202017.pdf>>; accessed 21.6.2018.

24 CES, Yearbook 2018, op. cit., p. 8.



## 4.2. Life-long learning in Croatia

### 4.2.1. Strategy ...

Innovations are based on human capital. Our knowledge, skills, talents and abilities are crucial for the economic success of countries and individuals.<sup>25</sup> Education is the generator for social, economic and other changes and prosperity of the country. If we want to develop the society, we have to increase the education level of its members. The faster the development of the society, the more developed the economy, and life-long learning.<sup>26</sup> Since the Lisbon Process 2010 “the dominant role of life-long learning in Europe is mirrored in the strengthening of competences for the labour market”.<sup>27</sup> It can be defined as a transformation of the life-long learning concept into a concept of acquiring the right skills for the labour market.<sup>28</sup>

Accordingly, in different national documents, life-long learning is determined as one of the foundations of the Croatian education system that provides new vocational skills for the labour market. The Strategy of Education, Science and Technology<sup>29</sup> pinpoints life-long learning as one of the foundations of the Croatian education system.<sup>30</sup> In the VET System Development Programme (2016–2020) referring to initial and continuous vocational education, life-long education and continuous vocational education are understood as synonyms.<sup>31</sup> “Continuous vocational education acquires the central place in adult learning precisely because it provides new vocational skills for the labour market.”<sup>32</sup> In Croatia, vocational training is regulated by the Vocational Education and Training Act.<sup>33</sup>

The educational system and unemployment rate are interconnected.<sup>34</sup> It should be emphasised that in Croatia primary school education represents a basic, mandatory

25 OECD, Human Capital, How what you know shapes your life, available at: <[www.oecd.org/insights/humancapital](http://www.oecd.org/insights/humancapital)>; accessed 10.5.2018.

26 Keely, B. (2007), *Ljudski kapital*, Zagreb, EDUCA; Jarvis, P. (2004), *Adult Education and Lifelong Learning* (3rd ed) London and New York: RoutledgeFalmer, p. 15. Cit. according to Vican, D., *Obrazovna struktura i obrazovne potrebe građana RH – platforma za promjene prakse obrazovanja odraslih*, *Andragoški glasnik*, Vol. 17, no. 2, 2013, p. 88.

27 Strategic Framework from Promotion of Lifelong Learning in the Republic of Croatia 2017-2021 (ed. M. Vučić et al.), Zagreb, Agency for Vocational Education and Training and Adult Education (Strategic Framework), pp. 10-11, available at: <<https://ec.europa.eu/epale/hr/node/41815>>; accessed 18.5.2018.

28 Nóvoa, A., The blindness of Europe: New fabrications in the European educational Space, *Sisyphus Journal of Education* 1 (1), 2013, p. 114. Cit. according to Strategic Framework, op. cit., p. 11.

29 Strategija obrazovanja, znanosti i tehnologije, OG 124/2014.

30 Strategic Framework, op. cit., p. 10.

31 Loc. cit.

32 Loc. cit.

33 Zakon o strukovnom obrazovanju, OG no. 30/09, 24/10, 22/13, 25/18. It encompasses formal and non-formal education and informal learning. Likewise, all forms are comprised in the Adult Education Act (Zakon o obrazovanju odraslih), OG, no. 17/07, 107/07, 24/10.

34 Bejaković, P., Situation and consequences of long-term unemployment in Croatia and measures for its decrease, p. 5ff, available at: <[ec.europa.eu/social/BlobServlet?docId=12057&langId=en](http://ec.europa.eu/social/BlobServlet?docId=12057&langId=en)>; accessed 6.11.2018.

level of education and, consequently, the “point zero” in a life-long learning strategy. Therefore, in comparison with other countries, like the Netherlands, where the basic education ends with a diploma of one of the forms of secondary education, and a person without such a qualification who leaves school does not have a right to social assistance benefits,<sup>35</sup> the situation with workforce qualifications and life-long learning in Croatia is from the very onset less favourable.

Scientific research dealing with life-long learning in Croatia remains scarce. The Eurostat data show that the level of participation in vocational education and training on the secondary school level in Croatia is among the highest in the EU amounting to 71,3%. Nevertheless, the employment rate of secondary school graduates that recently finished school of 46,1% in 2014 is significantly below the EU average of 73%. A serious objection to the Croatian education system is that the competences that the students acquire in school do not match the needs of the labour market. Even more concerning in terms of life-long learning, is that those competences are not upgraded. The employed adults in Croatia “seldom continue to upgrade their skills”. In 2016 only 3,2% of adults (aged 25 to 64) in Croatia participated in education and training, which is much lower comparing to the European average and objectives of the European and national strategies. Likewise, only 23,8% of employees participated in non-formal training organized by employers, comparing to the EU average of 34,1%.<sup>36</sup>

The benefits of adult learning regard the benefits for learners themselves, for employers and for the wider community. One of them is that “provision of employment- and work-related training is the key driver in increasing the overall rate of adult participation in learning; and improving learners’ disposition to learning increases participation in learning”.<sup>37</sup> Employers play an important role in promoting a learning culture and promoting participation in learning. “The research evidence highlights employers’ investment in learning as important for increasing the availability of learning opportunities as well as for increasing participation, especially among their workforce. As work-related motivations are among the main reasons for adults to take up learning, job-related training is particularly effective in attracting learners.”<sup>38</sup>

To conclude, the employers play the central role in encouraging and creating possibilities for additional education of their employees. Employers can motivate their employees with appropriate jobs that require new knowledge. This is true mostly of big companies that have possibilities for efficient education, better utilization of

35 See more: Pennings, F., Encouraging growth of skills and innovation in the Netherlands, in this issue of *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*.

36 Strategic Framework, op. cit., pp. 11-13. In the period from 2006 to 2016 the percentage varied between 2,6 and 3,2%. „This data is considered the main indicator of life-long learning and is one of the key indicators of improvement of education systems in the period up to 2010 and in the new Europe 2020 strategy.“ One of the important issues is a preschool education in the context of life-long learning, and the rate of participation in preschool and adult education in Croatia is at a very low level comparing with other EU countries. EC, Overview of Education and Training for 2016. Education in Croatia. Luxembourg, Publication Office of the European Union, available at: <[https://ec.europa.eu/sites/education/files/monitor2016-hr\\_hr.pdf](https://ec.europa.eu/sites/education/files/monitor2016-hr_hr.pdf)>; accessed 28.4.2018; Strategic Framework, op. cit., p. 12.

37 An in-depth analysis, op. cit., p. 3.

38 Loc. cit.

the employee's new knowledge and a more flexible relationship to work assignments. Workers are often motivated by improvement of their employability, but also by requests of everyday life, i.e. computer literacy, foreign languages etc. The state on the other hand has its own social reasons to improve the position of the vulnerable and marginalized groups through their participation in education.<sup>39</sup>

#### *4.2.2. Duty of the employer to provide education and training at work and paid educational leave*

According to the Labour Act,<sup>40</sup> the duty of the employer is to ensure schooling, education, vocational, as well as professional training for the worker, in line with the employer's capacities and business requirements (Art. 54/1).<sup>41</sup> This means that the employer who does not need the worker to master higher education and abilities is not obliged to ensure schooling, education etc. to the worker who may have made such a demand and wants to improve his or her skills. Therefore, it is possible to conclude that such legislative approach is narrow and shortsighted, not oriented towards the employability and adaptability of the workers, (defined) as the request that the workers are expected to continuously improve knowledge and skills, so that workers are prepared for the case they lose their jobs or face transfers to other positions etc. Much more has to be done also to make the worker aware of the importance of life-long learning in his/her carrier. On the other hand, a different legislative approach leaning towards a stringent duty of the employer to educate the worker would be better suited for looking after the interests of the society (decrease of unemployment, less costs for the state resp. social security system in case of redundancies etc.).

Exceptionally, according to Art. 54/3 LA, a worker needs additional education in the event of changes to or introduction of new patterns or organisation of work when the employer shall, in line with capacities and requirements of work, provide the worker with vocational or professional training.

According to Art. 36/1, 3 LA, "the worker who has exercised the rights to maternity, parental and adoptive leave, a leave for the purpose of taking care of and nursing a child with severe developmental disabilities and the abeyance of the employment relationship until the child's third year of age in accordance with specific provisions, shall be entitled to additional training, where there has been a change in the technique or method of work, and to benefit from any improvement in working conditions during his absence to which he would have been entitled".

However, when the employer requires the worker to be further educated or trained, the worker should take part in schooling, education, vocational and professional training, but only if that is "in line with his working abilities and business requirements" (Art. 54/2). In this case, the worker's refusal to act according to the employer's request may represent valid reason for dismissal due to the worker's misconduct (Art. 115) or for a "dismissal with the offer to the worker to conclude an employment contract under different terms (dismissal with the offer of alternative

39 Strategic Framework, op. cit., pp. 12-13.

40 Zakon o radu, OG, no. 93/2014, 127/2017.

41 „Obligation to provide education and training for work“.

employment)'' (Art. 123).<sup>42</sup> In case of a dispute about the validity of dismissal the court should analyse the existence of the worker's abilities and the business requirements.

In addition, LA does not regulate a very important issue, namely the burden of the educational costs. Therefore, the collective agreements or working rules, as well as employment contract play an important role in the regulation of such an issue. In the lack of respective regulations, the employer who requested the worker to take part in education seems to be obliged, by nature, to pay these costs. If the worker has requested the education, he or she carries the costs. In case of a dispute, the court should take charge of it on its own motion and examine whether the legal provisions of collective agreements, working rules or employment contract that regulate the amount and burden of educational costs are in line with the legal regulation (especially general law on obligations) and the moral principles.<sup>43</sup>

In practice, if the employer covers the educational costs, the worker often has a duty to remain employed by the employer for a certain period of time, unless he or she reimburses the costs (in total or in part) to the employer. Such stipulation is lawful.<sup>44</sup> The courts have ruled that the employee has to reimburse to the employer only the real costs the employer had, i.e. the costs of the examination, and not the costs the employer had regarding the engagement of his own workers that helped the worker to prepare the examination, because that cannot be considered a real cost.<sup>45</sup> Here it is worth mentioning a recent case before the County Court in Zagreb,<sup>46</sup> in which the worker had to reimburse the costs even independently of how long she remained employed by the same employer, and independently of who terminated the employment contract, worker or employer.<sup>47</sup> The Court decided that such contractual stipulation was contrary to the constitutional principle of the freedom of work and freedom to choose the profession and employment, as well as the statutory workers' right to terminate the employment contract by dismissal without the duty to specify any reason for doing so (Art. 115/4, LA). The Court ruled that the real goal of the doubtful stipulation was the ban of the competition between the worker and his employer, but the employer wanted to circumvent his statutory duty to pay the wage compensation to worker during the contractual ban of competition. If the employer wanted to ban competition, he should have stipulated the contractual prohibition of competition that can last up to two years after the termination of the employment contract (Art. 102, 103, LA).<sup>48</sup>

Besides, the courts have found doubtful the use of the legal institution of the

42 Cf. Rožman, K., Čl. 54, in: Frntić et al., *Detaljni komentar Zakona o radu*, Zagreb, Radno Pravo, 2018, p. 277.

43 Rožman, Čl. 54, op. cit., pp. 277-278.

44 Gović Penić, I., *Sudska praksa u području dopuštenosti ugovaranja povrata troškova edukacije za slučaj prestanka ugovora o radu*, Radno pravo, no. 9, 2018, p. 7.

45 County Court in Zagreb (Županijski sud u Zagrebu, Gžr-115/15, 20.01.2015)

46 County Court in Zagreb (Županijski sud u Zagrebu, Gž R-1998/13, 6.12.2017)

47 The employer was the owner of the hair-salon in which non-standard hairdressing techniques were applied, that requested the special education of the hairdressers.

48 See more: Penić Gović, I., op. cit., pp. 8-11.

contractual penalty. Settled case law of the county courts<sup>49</sup> states that the stipulation of the contractual penalty in case the employment contract terminated before its contractual duration expired, in which the educational costs should have been written off, is not allowed. The opinion is that it is contrary not only to LA provisions regulating the ban of competition between the worker and the employer, but also immoral because it stipulates the undue material benefit for one contractual party, that has no corresponding countervalue on the other side. This was approved by the Croatian Constitutional Court. On the other side, the High Commercial Court was of a different opinion, arguing that the contractual penalty is allowed, based on the provisions of the Obligations Act, while the amount of the penalty should be decided by the court, in proportion to the worker's duty to remain employed by the same employer for a certain period of time.<sup>50</sup>

In a dispute the court applies the existing rules of the collective agreements and working rules, or if they do not exist, the general rules on obligations,<sup>51</sup> in line with the legal nature of the employment contract. Also, the opinion in the labour law literature is that it should take into account the teleological interpretation of the LA and other applicable provisions, and the subsidiary implementation of the Obligations Act.<sup>52</sup>

The issue of the reimbursement of the educational costs for the medical doctors' specialization is actual in Croatia because of the migration of medical staff to other EU countries. The courts accept the requests of the hospitals, ruling that the medical doctors should reimburse the educational costs, with the arguments that such stipulation does not violate the constitutional freedom of work and employment, nor the Croatian Constitution, mandatory rules and the moral of the society in general (the conditions for the nullity of the contract, regulated in the Obligations Act).<sup>53</sup> Moreover, the opinion of the Civil Department of the Croatian Supreme Court is that the "medical doctor – specialist who has terminated his employment contract before the term stipulated in the contract of specialization expired, is obliged to return the gross amount of wages he received (as a part of the educational costs for specialization) to the medical institution who is a party to the contract of specialization, irrespective of the place where he performed the medical specialization".<sup>54</sup> The Constitutional Court was of the opinion that this does not represent a violation of constitutional rights of the worker.<sup>55</sup>

Paid educational leave is an important instrument for the realization of the workers' right to education and training. In this context it is instructive to note that Croatia has not ratified the ILO Paid Educational Leave Convention (1974, No. 140).<sup>56</sup>

According to Art. 86/4, 5 of the LA, a worker shall be entitled to paid leave

49 County Court in Pula (Gž-811/11-3, 20.6.2011) and County Court in Osijek (Gž-493/17, 1.2.2018).

50 See more: Penić Gović, I., op. cit., pp. 4-7.

51 Obligations Act (Zakon o obveznim odnosima), OG no. 35/05, 41/08, 125/11, 78/15, 29/18.

52 Rožman, Čl. 54, op. cit., p. 278.

53 County Court in Zagreb, Gž R-2542/15-2, 11.4.2017.

54 Supreme Court, Civil Department (Su-IV-168/16-11, 28.11.2016)

55 Constitutional Court, U-III-792/18 (3.5.2018). More: Gović Penić, I., op. cit., pp. 11-12.

56 Convention concerning Paid Educational Leave, Geneva, 59th ILC session (24 Jun 1974).

during education, vocational or professional training, and during education for the purposes of engaging in the works council or trade union work.<sup>57</sup> The conditions, the duration and remuneration can be determined by collective agreement, agreement between the works council and the employer or working rules. The periods of paid leave shall be regarded as time spent at work, for the purpose of acquiring the rights arising from employment or related thereto.

The problem arises if the conditions are not regulated by those autonomous rules. In that case the worker would not be entitled to the paid educational leave, nor could he realize such a right invoking this LA provision.<sup>58</sup> The right to a paid educational leave can be guaranteed by the employment contract or the autonomous employer's decision, but this renders the realization of this right very problematic and dependent on the employer's arbitrary decision. An especially unfavourable position is that of workers employed by a small employer (employing less than 20 workers), who is not obliged to endorse (draft and implement) working rules.<sup>59</sup>

We can conclude that a different legislative approach is needed to strengthen the duty of the employer to educate a worker (e.g. by precisely defined employer's duties), that will at the same time contribute to the interests of the community (reduce unemployment, costs for the social security benefits etc.).

#### 4.2.3. ... and Practice

Data about life-long learning as a part of human resources management presented in this paper have been collected by means of a questionnaire.<sup>60</sup> The results show divergences in opinions of trade unions and employers, as well as in respect of different branches of economic activities. At the same time, a commonality is that life-long learning is present in all the branches.

According to the opinion of trade unions,<sup>61</sup> life-long learning is crucial in achieving job security or security of employment. The existing life-long learning system in Croatia is not used enough and/or lacks quality and hence should be improved.

The situation in the construction industry can be taken as a case in point. The Trade Union of Construction Industry in Croatia (TUCIC)<sup>62</sup> advocates for the

57 Cf. Art. 140-191.

58 Rožman, Čl. 54, op. cit., p. 278.

59 LA, Art. 26/1.

60 The questionnaire concerning flexicurity of the Croatian labour legislation addressed to the employers and trade unions in Croatia was carried in 2017 and 2018, as part of the *Project Flexicurity's* research.

61 The interview included: Association of Croatian Trade Unions (Matica hrvatskih sindikata), Union of the Autonomous Trade Unions of Croatia (Savez samostalnih sindikata Hrvatske), Croatian association of workers' trade unions (Hrvatska udruga radničkih sindikata), Trade Union of Construction Industry in Croatia (TUCIC, Sindikat graditeljstva Hrvatske), Trade Union of the Tourism and Services of Croatia (Sindikat turizma i usluga Hrvatske).

62 It has approximately 5.500 members that regularly pay member's fee, the additional 2.000 – 3.000 non-regular payers, employees of the companies included in the insolvency proceedings. The Trade Union occasionally provides legal protection.



implementation of the system of dual vocational education and the recognition of the professional informal education. In fact, it is an old problem since already in 2007, TUCIC and Croatian Employment Association – Association of the Employers' in Construction Industry have drafted a model of dual education, and proposed it to the Ministry of Science, but it was not accepted. In this branch scholarships for pupils and students are rarely used because vocational schools have a small number of pupils. Schools are not attractive because of low wages in the construction industry, bad working conditions and work being performed off-site. TUCIC assesses that human resources management department at the employer's level is important and its size should depend on the size of the company. Special importance is given to social dialogue at different bargaining levels and development of additional models of vocational/professional education developed by employers and trade unions, besides the public model.

In tourism and hospitality industry, according to the interviewed employers, life-long learning is a continuous commitment. The workers attend different seminars and workshops. In the recruitment of the future workers scholarships are often used, mostly for pupils of secondary schools, but also for professional training as part of life-long learning programs.<sup>63</sup> The opinion of the Trade Union of the Tourism and Services of Croatia is that education should include more field work and hands-on experience (dual system).

Innovative practices are important for this economic activity. Professional, qualified workers are one of the key factors for the implementation of innovations. The research<sup>64</sup> carried out in 2016 on the sample of 13 companies in the branch of tourism and hospitality industry<sup>65</sup> in the region of Istria and Kvarner demonstrated that the majority of companies desire and strive to achieve a certain level of innovations, while 38% of the companies consider themselves open to innovations and new ideas; 62% of companies appreciate innovations, and recognise and adopt new ideas. The experience of the customers, products and services are the fields in which they planned to implement the innovations (28%, 27%, resp. 24%, in total 79% of the examinees). It should be emphasised that the lack of talented resp. "true" employees is considered one of the obstacles for introducing more innovations in the company (30%), along with "political and legislative obstacles" (30%) and "actual culture of the company" (30%). Accordingly, the Government and companies should pay more attention to "educated and capable workforce that has certain skills" (68%), "high level of employment" (21%) and "appropriate infrastructure (spatial and digital)" (11%), while

63 One of the programs, "Specialist of the food and drink department", carried out by the Faculty of Tourism and Management (FTHM) in Opatija, offers training for persons with different levels of qualifications: those with secondary school diploma, as well for those with higher-education or university diploma. The program (subjects) focuses on innovative practice in the preparation of food and drinks (such as current gastronomic trends, healthy nutrition, or the safety of food).

64 Batković, A., *Inovacije u turizmu u Europi*, (PhD thesis), University Juraj Dobrića u Puli, Faculty of economy and tourism „Dr. Mijo Mirković“, Pula, 2016, available at: <<https://zir.nsk.hr/islandora/object/unipu%3A1068/datastream/PDF/view>>; accessed 11.6.2018.

65 Among them, 2 medium-sized enterprises, 5 small enterprises and 6 big enterprises.

nobody allocates importance to “health and well-being of the workforce”, “diversity of the workforce and its higher inclusion in the society”, “higher equality in the basic income of the citizens” and “reduction of the impact on the environment” (0%).<sup>66</sup>

The examinees were asked about the activities they took “in order to enable their employees resp. the people the examinees were working with, to streamline their work towards better, new ideas and innovation”. They focused on: the investigation of better solutions, supporting the ideas of colleagues, creating a pleasant working atmosphere, stimulation of opinion sharing, motivation and support, equal treatment of team members, critical and creative thinking. The use of new technologies is considered important for innovations in the company (5%). We can conclude that the given answers reflect an orientation towards innovation and growth of skills of employees. But there are also different opinions, like the one that “innovations are not the priority in relation to the market on which the company operates”, as was asserted by 15% of the examinees.<sup>67</sup>

The professional, educated staff is considered one of the most important driving forces of innovations in general.<sup>68</sup> One research indicated that “hotels that are part of a chain innovate more easily than the ones that are operating individually because they can benefit from managements’ know-how ... Human capital skills and the ability of their update is materialized in trainings and reflected in HR investments, both important for innovation success ... The most innovative hotels have a higher classification (3 or 4-5 stars).”<sup>69</sup>

Life-long learning in IT sector is seen as the key condition for the development of the company and its survival in the demanding technological market.

This branch is strongly marked by innovations in new technologies, both infrastructural and software products, in projecting, montage and maintenance of the equipment. Sophisticated technologies request continuous investment in knowledge and competencies of the employees. In the questionnaire the employers emphasized that the workers are considered the most precious value for the company. Highly qualified workers with experience and knowledge are seen as the precondition for the competitive advantage of the company. The workers gain special and general knowledge, by the supplier of the equipment, at conferences and seminars in Croatia or abroad, and in-house seminars. Therefore, as the number of workers included in the education increases, so does the total investment into education. The possibilities of education and training represent one segment of the improvement of the working environment.<sup>70</sup> Consequently, the employment on indefinite term is most often used.

66 Batković, A., op. cit., p. 80ff.

67 Batković, A., op. cit., pp. 79-87.

68 Nemeth, C. J., *Managing Innovation: When Less Is More*, California management review, 40 (1), October 1997, available at: <[https://www.researchgate.net/publication/246756495\\_Managing\\_Innovation\\_When\\_Less\\_Is\\_More](https://www.researchgate.net/publication/246756495_Managing_Innovation_When_Less_Is_More)>; accessed 12.6.2018.

69 Nagy, A., *A Review of Tourism and Hospitality Innovation Research*, available at: <<http://steconomiceuradea.ro/anale/volume/2012/n2/051.pdf>>; accessed 12.6.2018.

70 Odašiljači i veze d.o.o., *Godišnje izvješće za 2016. godinu*, p. 22ff, available at: <[https://www.oiv.hr/tvrtka/izvjesca/izvjesca-god/files/godisnji\\_izvjestaj\\_oiv\\_2016.pdf](https://www.oiv.hr/tvrtka/izvjesca/izvjesca-god/files/godisnji_izvjestaj_oiv_2016.pdf)>; accessed 6.6.2018.

### **4.3. More flexibility – (as) the key to fostering innovations in Croatia?**

As Frans Pennings points out, innovative companies, such as start-ups, “often need particular flexibility if they employ workers” not knowing “whether their enterprise or idea will become successful.”<sup>71</sup>

Open-ended employment contracts represent a predominant form of employment in Croatia.<sup>72</sup> Fixed-term contracts are an instrument of flexibility for the employers. But is there any space for more flexibility in Croatian legislation? According to the answers given in the questionnaire, trade unions strongly oppose further flexibilization of the fixed-term contract, emphasizing that it is misused by employers and arguing for a change of the existing regulation. Invited to express their opinion about more flexibility in exchange for more security, the interviewed trade unions in Croatia are, in general, very much against more flexibility, as previously stated. In its Report,<sup>73</sup> the European Commission has also pointed out a high share of temporary employees in Croatia.

This paper analyses the current state of affairs in the mentioned economic branches also using the data collected by the questionnaire. Besides the fixed-term contract, other non-standard and atypical forms of employment are analysed too.

#### *4.3.1. Construction industry*

According to the statistics of the Croatian Bureau of Statistics<sup>74</sup>, in 2016 the legal entities employing five or more persons<sup>75</sup> engaged in construction activities had on average 1,5% more workers on sites and 3.0% more working hours done on sites than in 2015. In 2016, the value of construction works done by workers on sites increased by 4,6%, as compared to 2015, and amounted to 15.842.907 Kuna (approximately 2.112 million EUR).<sup>76</sup> The average number of workers engaged on sites in 2016 was 41.639, hours done on sites (‘000 hours) was 78.014. The evident lack of workers in the construction industry was resolved by the employment of foreign workers. According to the Government of the RC Decision,<sup>77</sup> the annual quota for the employment of foreign workers in the construction industry for 2018 is 10.770 workers.<sup>78</sup>

71 Pennings, F., Encouraging growth of skills and innovation in the Netherlands, in this issue of Zbornik Pravnog fakulteta Sveučilišta u Rijeci.

72 Grgurev, I., Vukorepa, I., Flexible and New Forms of Employment in Croatia and Their Pension Entitlement Aspects, in: Transnational, European, and National Labour Relations (Flexicurity and New Economy), ed. G. Sander, V. Tomljenović, N. Bodiroga – Vukobrat, Cham, Springer, 2018, pp. 246ff.

73 EC, Country Report Croatia 2018, op. cit.

74 Croatian Bureau of Statistics, Statistical Reports, 2016, available at: <<https://www.dzs.hr/>>; accessed 3.6.2018.

75 They do not cover legal entities employing less than 5 persons and tradesmen, nor individual citizens who do some construction works themselves, without involving business entities.

76 By types of constructions, 48,1% out of the total works were done on buildings and 51,9% on civil engineering works. By types of works, 53,5% out of the total works were done on new constructions and 46,5% on reconstructions, adaptations, repairs and maintenance works.

77 OG, no. 122/2017.

78 By qualification: 2.900 carpenters, 2.600 bricklayers, 1.500 monteurs, 1.500 steel-benders, 500

It should be emphasized that the employment contract on indefinite term still prevails in the construction industry. Nevertheless, the number of (predominantly) newly employed workers with the fixed-term contract is constantly growing, including cases in which it is, according to the TUCIC, misused or used as a substitute for the trial period. This trend is expected to continue because of insolvency and liquidation of the big and middle-size enterprises and the growth of small enterprises in this branch. Fixed-term contracts are often of a seasonal character because of the highly seasonal nature of the activity. Other atypical forms of employment are not so relevant in this branch.

Part-time work is not attractive because of the low level of wages for full-time work that are approximately 18% lower than the average wage in Croatia. Students' work and employment of the pensioners is used rarely, and predominantly for administrative work. Temporary agency work is used occasionally, as well as outsourcing, that is mostly used for the security protection jobs. "Vocational training for work without an employment contract"<sup>79</sup> is also not used because many companies in this branch had collective redundancies, which is an obstacle for the use of this type of work.<sup>80</sup> Job sharing is not appropriate because it increases the costs of workforce when the work is performed offsite and this happens often. Employee sharing is used occasionally in order to meet the requirements for public procurement (for the project managers – engineers). *Ad hoc* employee sharing to "a company associated with the employer" within the meaning of a specific provisions on companies (Art. 10/2 LA) is also used. In practice the workers perform their duties for the main and the dependent company without the contract-based sharing ... Interim management is used occasionally and casual work often as fixed-term employment.<sup>81</sup>

Innovative practices in Croatian construction industry can gain importance when, accompanied with the renewable sources of energy that are completely adapted to the Croatian climate and geographic specificities, they are based on the so-called green industry. The savings of energy and construction of buildings that are cooled and heated depending on the environmental influences will become important because of the request that new buildings, both public and private, must be issued energy certificates (attesting to their energy efficiency) as of 2021.<sup>82</sup> Thus, this renders skilled workers or continuous vocational education all the more important.

Some companies in construction industry took advantage of the project "Strengthening the Capacities of the Chambers and Partners to Help SMEs to Engage in Apprenticeship" - Cap4App, which started in October 2016.<sup>83</sup>

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master bricklayers.

79 See more *infra*, 4.4.1.

80 It is regulated by LA, but also as an ALMP measure by *lex specialis*.

81 Questionnaire Flexicurity, op. cit.

82 <<https://www.hgk.hr/zk-split-sjednica-strukovne-grupe-graditeljstva-n-izvjestaj-1>>, accessed 3.6.2018.

83 As a prerequisite for a stronger involvement in vocational education and training reform, CCE secured funding under ERASMUS+ KA3. The aim of the project is to strengthen the organizational capacity of the CCE by educating CCE employees in order to provide the best possible support to small and medium-sized enterprises, already participating or planning to

#### 4.3.2. *Tourism and hospitality industry*

Tourism and hospitality industry is one of the most important economic branches in Croatia.

Aside such positive results and great expectations of this economic activity, the sector is overshadowed by a lack of workers. The annual quota for the employment of foreign workers in this branch in 2018 is 4.660 workers.<sup>84</sup>

What characterizes the employment in this branch are fixed-term contracts, especially with regard to new employment. Some employers have 25% or even 50% of fixed-term workers in the total number of employees.<sup>85</sup>

According to the Art. 12/3 LA, the cumulative duration of all successive fixed-term employment contracts, including the first employment contract, may not exceed three consecutive years, unless where this is necessary for the purpose of replacing a temporarily absent worker or where it is, due to *objective grounds* allowed by law or a collective agreement. The latter possibility of longer duration prescribed by a collective agreement is used in the tourism and hospitality industry. National collective agreement of the hospitality industry (signed and in force since 2018)<sup>86</sup> allows the employer to conclude one or more consecutive fixed-term employment contracts with the same worker for the seasonal work with the redistribution of working time (LA, Art. 67) for a consecutive period longer than 3 years if employment contract has been concluded for permanent seasonal jobs. As “objective grounds allowed by a collective agreement” lower level (employers’) collective agreements prescribe the following grounds: for temporary jobs for which the employer has an extraordinary need, the accomplishment of the set business undertaking, temporary actual limited order or other temporary increase of the workload that is characteristic of the hospitality industry particularly in the summer season when numerous tourists visit Croatia.<sup>87</sup>

Such wide definition of the objective grounds goes hand in hand with the business needs in summer season and therefore seems to be justified. On the other hand, trade unions strongly oppose such trend of excessive use of fixed-term contracts, with the slogan “Human being – the key to success in tourism”. Several years ago they hence proposed a regulation of the duty of the employer who requests a higher

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participate in vocational training programs. One of the objectives is „to improve the perception and popularity of certain vocational professions as well as raise employers’ awareness of the importance of participating in vocational education programs.“ The collaboration with Austrian Federal Economic Chamber and the introduction of good practices were planned in order to acquire knowledge and experience applicable in the Croatian context. <<http://www.dualnoobrazovanje.hr/cap4app-project>>; accessed 3.6.2018.

84 By qualification: Animator in tourism 80; masseur of the specific massage techniques 100; international kitchen’s cook 300; cook 400; agent in tourism 50; diving instructor 10; professional educator of mindfulness meditation’s 5; assistant workers (assistant cook, assistant waiter, cleaner, room-maid) are especially numerous - 3.715.

85 Questionnaire Flexicurity.

86 The same rule was prescribed in Collective agreement in the hospitality industry (2015), OG, no. 16/2015.

87 Collective agreement Jadranka Hotels d.o.o., Mali Lošinj, 2005. See also: Barjaktar, B., Što donosi novi Kolektivni ugovor ugostiteljstva, *Radno pravo*, 2015, no. 6, pp. 13ff.

categorization of its object (according to the Regulation on the categorization of the hotel objects<sup>88</sup>) to employ workers on indefinite time, in proportion to the number of beds offered in its premises.<sup>89</sup>

Besides this, their opinion is that education should include more practical work (dual system). The Trade union of tourism and services of Croatia also complains about the violation of the rules regulating working time, especially in regard to unjust redistribution of working time (demanding that it should be paid as overtime work, instead of time free from work), low wages and low level of accommodation of seasonal workers in tourism and hospitality industry. Therefore, Croatian workers are forced to leave the country and search for (often identical) work elsewhere in European countries. Consequently, foreign workers are employed, with no experience of work in tourism and problems in communication, adaptation and low level of income (since they send their wages to their families in the homeland). The result is dubious quality of service, while at the same time tourists are more and more demanding. Trade unions also plea for a more flexible ALMP measure of seasonal employment and employment of retired persons based on the contract for services.<sup>90</sup>

Besides the fixed-term employment contract, one of its forms, “permanent seasonal work” is especially represented in this branch (more *infra* 4.4.3.).

The analyses show that other atypical forms of employment, such as part-time work, temporary agency work and outsourcing are rarely used, as well as Vocational Training for work without an employment contract (both regulated by LA and ALMP). Employers utilize full-time students’ employment during the summer season (2 or 3 months), with a share of 2 % up to 9,4 % of students in the total number of employed. Contract for services is also rarely used, although in one case, the share of persons under the contract for services was 17% in the total number of the employed.<sup>91</sup> An employer has implemented *ad hoc* employee sharing to an employer associated with him for 10 workers (which represents less than 2% of the total number of employees), for a one-year period.

The employers argued in favour of more flexible regulation of the occasional part-time work, which they often need during the summer season (e.g. several days a month, for banquets, weddings or preparation of more meals), requesting less strict conditions for approval for such type of work that according to the Art. 62, LA should be given by the first employer.

#### 4.3.3. *Banking and financial sector*

When asked about the Croatian labour legislation, the employers within this sector consider it too rigid, suggesting instead less administration concerning flexible working time, and more flexible and less expensive health and safety at work

88 Signed and in force from April 1, 2018 until December 31, 2019. Kolektivni ugovor ugostiteljstva, OG 36/2018.

89 Questionnaire Flexicurity, op. cit.

90 Galeb, the bulletin of the Trade union in Tourism and Services of Croatia, available at: <[https://issuu.com/uploaderv/docs/stuh\\_-\\_galeb\\_114](https://issuu.com/uploaderv/docs/stuh_-_galeb_114)>; accessed 1.6.2018.

91 Questionnaire Flexicurity, op. cit.



protection when the employment contract is concluded for tele-work and ICT work. Also, they find the employer should be liable for an offence only for fundamental violations of employment rules, and not for almost every rule, as is now. What's more, they consider the criteria and terms regulating the working status of the employee with low performance and results when he/she acts without guilt, too lenient.

In this sector students' employment is often used (and amounts to 4% of the employer's stable workers). Crowd employment was used too (only 2 workers in 2016). Workers are organized in the Trade Union of the Employees in Banks and Financial Institutions of Croatia (Sindikata bankarskih i financijskih djelatnika Hrvatske).

#### *4.3.4. IT sector*

The results of the research show that employment on indefinite term is the rule in the IT sector, while fixed-term contracts are rarely used (according to the questionnaire, e.g. 1,33 %, or 3,86 %). As already elaborated above, this is a highly innovative branch making life-long learning all the more important, as well as having a stable work-force. The following types of flexible work are represented: work at an alternative workplace (at worker's home or outside the employer's premises/tele-work); temporary agency work and student work, as well as work performed based on contract for services.<sup>92</sup>

#### *4.3.5. Pharmaceutical sector*

According to the analysis agency work is used (120 workers in total of 2.300 workers) for ancillary jobs in production and administration; outsourcing for maintenance, cleaning, washing, transport, work in restaurants; students' work (80) for some administrative jobs; contract for services, work of retired persons based on contract for services. ICT work is present as work of employees that perform IT support and have set availability periods.

The employers prefer more flexibility in the organization of working time, especially when workers work at home or outside the employer's premises, and also think more flexibility is necessary for the determination of the place of work by the worker. Furthermore, they call for introducing more flexible forms of work in the Croatian legislation ("deregulation") that could be used in pharmaceutical companies for certain jobs performed outside the plant, for instance a sort of combination of employment contract and contract for services. This should be accompanied by an appropriate modification of the pension insurance scheme that would be based not on the amount of the contributions, but on the actual working time of the employee. The modification of the pension insurance scheme itself would enable an appropriate application of the employment regulation in force (including job sharing and other flexible forms of employment).<sup>93</sup>

92 Questionnaire Flexicurity, op. cit.

93 Questionnaire Flexicurity, op. cit.

#### 4.4. Active Labour Market Policy Measures

In combating unemployment, especially long-term unemployment active labour market policy (ALMP) measures are most important. Croatian Employment Service (CES) as the central institution in Croatian labour market implements ALMP measures in order to facilitate the transition from unemployment to employment and to lower the rising unemployment rate. In Croatia there has been a range of active labour market measures. Nevertheless, their disadvantages are that they are comparatively small scale and suffer from a funding mechanism that treats them as residue once the costs of passive measures are met.<sup>94</sup>

It has to be emphasized that, although monitored, in the past ALMP measures have not been systematically evaluated for net effect, i.e. in terms of fitness for improving the employment opportunities of the participants. Exceptionally, an evaluation has been made of ALMP measures which were carried out from 2010 to 2013, in order to determine their success and impact on the employment opportunities in comparison with members of the control group whose members did not participate in the measures.<sup>95</sup> In the period from 2009 up to today the active labour market policy measures carried out by CES were defined by different national employment promotion plans and guidelines.<sup>96</sup>

According to Guidelines 2018–2020 the vision is a competent and adaptable work force that is capable to respond to the labour market demands, while interconnected labour market institutions are able to offer high-quality service. The mission is to increase employability and adaptability of the work force and guarantee education and training in line with the labour market demands, as well as the wishes and capabilities of workers, promote life-long learning and plead for equal opportunities in access to labour market for everyone, and especially for persons in disadvantageous positions.<sup>97</sup>

One of the goals is to increase employment from 58,5% (in 2017) to 65,2% (in 2020); special subgoals are to achieve in 2020 an increase of youth employment rate of 45,7%, of older (+50) persons' employment rates of 55,5%, decrease the percentage of long-term unemployed at 43,9% in total unemployment in 2020, and to increase the inclusion in the ALMP measures, especially of the vulnerable groups of unemployed,

94 Bejaković, P., *Situation and consequences*, op. cit., p. 6.

95 Croatian Employment Service (CES), *External Evaluation of Active Labour-Market Policy Measures 2010-2013*, Summary evaluation report 2016, p. 5, available at: <[http://www.hzz.hr/UserDocsImages/Sumarno%20evaluacijsko%20izvje%C5%A1%C4%87e\\_ENG\\_Vanjska%20evaluacija%20mjera%20aktivne%20politike%20tr%C5%BEi%C5%A1ta%20rada%202010%20-2013.pdf](http://www.hzz.hr/UserDocsImages/Sumarno%20evaluacijsko%20izvje%C5%A1%C4%87e_ENG_Vanjska%20evaluacija%20mjera%20aktivne%20politike%20tr%C5%BEi%C5%A1ta%20rada%202010%20-2013.pdf)>; accessed 13.9.2017.

96 In August 2017 a special Working group for the monitoring of the realization of the active employment policy measures was appointed with the task to analyse the efficiency of the measures, propose their betterment and draft the Guidelines for the development and implementation of the active employment policy in Croatia (2018 – 2020), adopted in December 2017, hereinafter: Guidelines. (Smjernice za razvoj i provedbu aktivne politike zapošljavanja u Republici Hrvatskoj za razdoblje od 2018. do 2020. godine, available at: <<https://vlada.gov.hr/UserDocsImages/Sjednice/2017/12%20prosinac/73%20sjednica%20VRH/73%20-%201.pdf>>; accessed 13.9.2017.)

97 Guidelines, op. cit., p. 6.

of 1,5%.

In order to answer to the challenges of the labour market the goal of harmonization of the supply and demand on the labour market is envisaged.<sup>98</sup>

It must be emphasized that in February 2017 a new package of measures was adopted that reduced the number of measures, albeit to the purpose to achieve more clarity and availability. It also allows the possibility of combining individual measures. The measures were coordinated with the Ministry of Labour and Pension System. Focus is placed on groups that have difficulties with employability and on educational measures. The new, nine-measure plan called “From a Measure to a Career” (“Od mjere do karijere”) includes the following measures: employment incentives, training of the employed, self-employment (start-up) incentives, training of the unemployed, workplace training, occupational training without commencing employment, public work, job preservation subsidies, and permanent seasonal worker status.

Since 2017 the ALMP measures aimed at, first of all unemployed persons who are disadvantaged in the labour market, especially young and long-term unemployed, at strengthening the educational and training activities at work-place and at employers who need assistance in job retention, i.e. at employed persons facing job loss. The CES has also implemented active labour market policies which stimulate employment, self-employment, training, occupational training and participation in public work programmes of specific target groups. It aimed to improve the competitiveness of employers, increase the professional, geographical and educational mobility of labour force and ensure a good match between demand and supply in the labour market and ensure quality work force by increasing the qualification level of unemployed persons.<sup>99</sup>

In 2018 two new ALMP measures have been introduced: subsidy for the apprenticeship and training in order to achieve appropriate work experience (30+).

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98 The subgoals are: to increase the adaptability of the educational system in line with the labour market's demands, a way to increase the employment of persons aged 25 – 64 with secondary and high education at 83,2% in 2020; increase the part of the citizens aged 25 – 64 included in life-long learning at 5,6% in 2020; development of the system of recognition and evaluation of the previous education/learning (by drafting and adopting special Regulation).

99 Statistical data show that in 2017, a total of 64,797 persons participated in the measures implemented by the CES, i.e. 8.4% less than in 2016. Most of them participated in vocational training for work without an employment contract (25,649 persons or 39.6%) or took advantage of the following measures: employment incentives (11,556 persons or 17.8%), public works (11,479 persons or 17.7%), self-employment (start-up) incentives (5,824 persons or 9.0%), training for the unemployed (5,543 persons or 8.6%) and permanent seasonal worker status (4,233 persons or 6.5%). A significantly smaller number of them participated in workplace training (273 persons or 0.4%) or took advantage of the training for the employed (200 persons or 0.3%) and job preservation subsidies (40 persons or 0.1%). Most new entrants took advantage of: public works (28.1% of the total number) and occupational training without commencing employment (26.2% of the total number), employment incentives (15.9%), training for the unemployed (11.7%), self-employment (startup) incentives (9.5%) and permanent seasonal worker status (7.5%). Besides, a relatively small number of them joined: workplace training (0.7%), training for the employed (0.4%) and job preservation subsidies (0.1%). CES, Yearbook 2018, op. cit., pp. 8, 37, 38.

#### 4.4.1. Vocational training for work without an employment contract

It is an active labour market policy measure introduced in 2010 (by the National Employment Promotion Plan 2009 – 2010) and regulated by the Employment Promotion Act.<sup>100</sup> It represents a type of professional traineeship.

Under the recent employment promotion package (2017), employers can obtain subsidies (for 12 or 24 months) for the employment of an unemployed person up to 30 years of age, that has up to 12 months of work experience in the occupation he/she is trained for and who has been enrolled in the CES register for at least 30 days. The subsidy includes the payment of obligatory pension and health insurance contributions as well as a part of educational costs (cca 950 EUR) to the employer. The examination costs (professional or vocational) plus a monetary benefit are paid to the trainee. Monetary benefit amounted to 2.751,84 kn (cca 370 EUR) in 2018. Employer is obliged to pay travelling costs to the trainee. Also, the employer has to appoint a mentor to the trainee and prepare a program of workplace training. Furthermore, the measure can be used where no examination or work experience is prescribed as a prerequisite for the performance of the occupation.

It is one of the most frequently used measures.<sup>101</sup> Accordingly, it is criticised as a tool providing employers with cheap labour where a regular employment contract should be concluded. Trade unions strongly oppose this model because of its negative impact on the labour market.<sup>102</sup> Nevertheless, as a tool for gaining practical knowledge it is useful, but should be adjusted.<sup>103</sup>

The conditions the employer has to fulfil to obtain this subsidy are several. One of them is that the employment of the trainee has to increase the number of the workers employed by the employer, in relation to the average number of employees in the last 12 months (with the trainees included) etc.<sup>104</sup>

100 Employment Promotion Act (Zakon o poticanju zapošljavanja), OG no. 57/2012, 120/2012, 16/2017.

101 Veljača, M., *Mjere aktivne politike zapošljavanja iz nadležnosti Hrvatskog zavoda za zapošljavanje u 2018. godini*, u: *Radni odnosi – aktualnosti u 2018. godini*, Zagreb, Inženjerski biro, 2018, p. 117.

102 <[http://www.nsz.hr/tag/strucno\\_osposobljavanje\\_bez\\_zasnivanja\\_radnog\\_odnosa/](http://www.nsz.hr/tag/strucno_osposobljavanje_bez_zasnivanja_radnog_odnosa/)>; accessed 12.6.2018; <http://www.sssh.hr/hr/vise/nacionalne-aktivnosti-72/mlade-radnice-i-radnici-porucuju-vrijedimo-vise-od-osposobljavanja-na-minimalcu-2845>, 12.6.2018.; the Act was named „Act for the Promotion of the Emigration“, <<https://www.nszssh.hr/novostigal.php?what=1&tip=1&id=716&subgroupeid=716&bck=2>>; accessed 5.11.2018.

103 Bejaković, P., in “U mreži Prvog”: *Nezaposleni - 40% dugo čeka posao, 30% stariji od 50 god.*, <<https://vijesti.hrt.hr/437780/u-mrezi-prvog-nezaposleni-40-dugo-ceka-posao-30-stariji-od-50-g>>; accessed 6.4.2018.

104 During the workplace training the number of workers should not decrease below the number of workers the employer had at the moment when filing the request for this subsidy. If the number of workers decreases, the employer has 60 days to compensate the number of employees. The employer has to inform CES of every decrease below this minimum number of employees (if not, it has to return the received subsidy). The number of the trainees cannot exceed 50% of the average number of employees in the last 12 months. The employers that use the subsidy for self-employment can employ a maximum of 2 trainees. The subsidy can be used again for the same number of trainees, if the employer has kept all of the previously engaged trainees

Employers in a non-profit sector are not subject to such restrictions, but they can employ exclusively sufficient professions and persons with employment difficulties. These restrictions do not apply on mandatory trainees in the field of health, social care and education. An employer who has dismissed workers because of business reasons in the last 6 months (a level of a particular organisational unit is taken as relevant) is not entitled to this subsidy. Regarding the working conditions, trainees cannot be ordered to work at night (22 to 6), on Sundays, holidays etc. Their working time is limited to 40 hours per week.

#### 4.4.2. *Subsidy for the apprenticeship*

This subsidy for the achievement of the very first work experience can be used for employment of several groups of persons: persons who have no insurance period, long-term unemployed persons; particular groups of unemployed; persons older than 50; ex-beneficiary of workplace training without an employment contract; persons with disabilities; persons with disabilities with no previous length of service (insurance periods). The subsidy amounts up to 50% of the yearly gross wage costs or up to 75% for the person with disabilities for the employer that performs an economic activity. For the employers – public services, i.e. education, health and social care, and culture, it amounts up to 100% of the yearly gross wage costs. The maximum duration of the subsidy is 12 months. The amount of the subsidy depends on the educational level of the apprentice. In addition, travelling costs for the worker are covered.<sup>105</sup> There are several groups of employers who are not entitled to use the subsidy: an employer who has not employed worker(s) because the apprentice has to be made familiar with the work and controlled at work; employer that has unpaid tax duties; employer facing business difficulties; for the *ad hoc* sharing of workers and for the workers posted abroad etc.

This new measure has been introduced at the beginning of 2018 in order to replace the criticized measure of the vocational training for work without an employment contract. Croatian ombudsman objected that the restriction of the measure only for the employment of apprentices in specific fields of public services (education etc.) neglects numerous other professions for the performance of which state exam or licence is needed (e.g. lawyers, architects, engineers etc.), that need protection because of the low demand of the labour market for such professions.<sup>106</sup>

#### 4.4.3. *The “permanent seasonal worker” subsidy (“stalni sezonac”)*

This subsidy aims to support those workers who work only during the season,

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employed and pays them from his budget, or has employed 50% of the previously engaged trainees with the subsidy of CES.

105 Similarly to the workplace training, the employment of the apprentice has to increase the number of the workers employed by the employer in relation to the average number of workers in the last 12 months or to employer whose jobs have become vacant because of valid reasons, that do not include collective redundancies or dismissals because of business reasons.

106 <<https://ombudsman.hr/hr/dis/cld/1345-diskriminacija-u-provedbi-mjera-aktivne-politike-zaposljavanja-moduldiskriminacija>>; accessed 5.11.2018.

and therefore do not receive wage and have no pension insurance in the non-seasonal period.<sup>107</sup> The measure can be used by employers in all branches of activities that due to the seasonal nature of activity have a period of decreased business activity. The condition that needs to be met is a continuous 6-month employment by the same employer and the continuation of the employment for at least one (before: three) season. The duration of the subsidy is 6 months.

The amount of the subsidy for employer is a 100% payment for the so-called extended pension insurance contribution for the first three months, and 50% for the next three months.<sup>108</sup> The worker receives financial compensation for a maximum of six months. The amount of compensation is calculated based on the compensation for unemployment. Workers can receive up to the 70% of the average salary paid off in the real sector for the first 90 days, and 35% for the rest of the period.

According to the research carried by P. Bejaković, the employers who have been using the permanent seasonal worker measure continuously notice improvements. "Its positive effects include retaining quality labour force, showing concern for employees, creating a safe working environment, and continued employment over seasons. This measure enables more stable business activities and a safer position on the market due to retaining of some employees, particularly the best ones, for the next season. The purpose of this measure has been achieved because employees have exercised all of their rights, they have a secure job over a given time period, and the number of unemployed persons in the register has decreased due to the workers' stable, seasonal work." Workers feel rewarded by their new status, and consequently a healthy competitiveness and increased productivity and professionalism are achieved. According to the opinion of the CES staff "this measure is attractive to employers due to low costs, which helps retain seasonal workers and enables participation in all of the related benefits." The problem is a surprisingly low participation in the measure despite the fact that employers can benefit from lower expenses for this type of workers. The measure is usually used by larger entities with operational resources and knowledge necessary for participation and realisation of rights. Smaller businesses (employers) do not use it often, because of the limitations with respect to the number of allowed permanent seasonal workers in relation to the number of regular employees. "There have been proposals for redefining the quotas for the allowed number of permanent seasonal workers with respect to company size."<sup>109</sup>

In this context the legal institution of employment contract for permanent seasonal jobs should also be mentioned, as it aims to promote permanent seasonal employment. It is regulated by the LA. According to Art. 16, where the employer is mostly engaged in seasonal activities, a fixed-term employment contract may be concluded for permanent seasonal jobs. In the case of concluding this type of contract,

107 A person permanently employed in a particular period of the year at the same or similar job for at least 6 months.

108 The employer has a duty to keep the same number of employees as on the date he requested a subsidy, ensure the employment of the worker(s) in the next or three subsequent seasons, and pay the pension insurance contributions for the period in which the number of employees decreases.

109 External evaluation, op. cit., p. 62.



the employer shall be responsible for the application of the so-called extended pension insurance, for contributions and calculation and payment thereof.

Seasonal employment is important in Croatia. It represents a significant share of total employment of persons from the CES Unemployment Register (CES UR): in 2017, 36,288 persons found employment as seasonal workers, i.e. 20,4% of the total number of persons from the CES UR. Compared to 2016, total seasonal employment decreased by 4,394 persons or 10,8%. It is primarily associated with tourism and the accompanying activities, such as accommodation and food service activities, but also trade, transportation, administrative and support service activities etc. It is frequent in other activities, in particular agriculture, forestry and fishing, and some parts of the manufacturing industry.<sup>110</sup> Most seasonal workers came from the coast (a total of 63,6%) and Slavonian (22,0%) counties. The regions in which tourism is the predominant economic activity are those which normally provide a significant number of seasonal workers for employment in towns at the seaside, but which are also focused on agriculture and manufacturing as seasonal activities. "In terms of occupation, waiters (3,126 persons or 8,6%) and sales workers (3,114 persons or 8,6%), cooks/chefs (2,951 or 8,1%), cleaning ladies (1,659 or 4,6%), assistant cooks/chefs (1,587 or 4,4%) and chambermaids (1,562 or 4,3%) accounted for the largest shares of seasonal workers."<sup>111</sup> In 2018 the lack of seasonal workers mostly in tourism and hospitality industry caused the increase of the quota-employment of foreign workers, mainly from the non-tourist counties and other neighbouring countries (Bosnia and Herzegovina, Serbia).

#### *4.4.4. Job preservation measures - ('potpore za očuvanje radnog mjesta')*

We now turn to a brief analysis of the job preservation measures. These measures serve as "an alternative to dismissal" and are therefore important in achieving employment security and preventing unemployment. The measures carried out by CES are directed to employers in difficulties trying to preserve jobs, employers facing temporary decrease of the business activities and/or loss in business. Compared to other ALMP measures, those had the smallest number of beneficiaries, e.g. in 2016, there were only 82 beneficiaries and in 2017 only 40. Further analysis is needed to detect the reasons for such low interest for such measures.

The two measures for job retention are: subsidy for the reduction of working time ('potpora za skraćivanje radnog vremena') and subsidy for worker's education ('trošak obrazovanja radnika'). In both cases, the employer should make an appropriate programme for job preservation. The novelty is that the measures can also target workers older than 50 employed by the employer facing difficulties or who cannot fulfil their working duties in full due to personal working or other characteristics. The

<sup>110</sup> In 2017, the largest number of seasonal workers was recorded in the accommodation and food service activities (21,132 workers or 58,2%), trade (4,102 workers or 11,3%), administrative and support service activities (3,152 workers or 8,7%), manufacturing (1,627 workers or 4,5%), transportation and storage (1,180 workers or 3,3%) and agriculture, forestry and fishing (1,049 workers or 2,9%). CES Yearbook 2017, op. cit., p. 26-27.

<sup>111</sup> CES Yearbook 2017, op. cit., p. 27.

maximum period for awarding the subsidy is six months for each worker. In case of reduction of working time, the subsidy is proportionate to the amount of wage for the number of working hours that were reduced (up to 40 % of reduction of working time and up to 40 % of the gross salary) up to the amount of the minimum wage, according to a special regulation (for 2018, cca. 450 EUR). The works council, resp. trade union and employer should sign an agreement on the acceptance of the programme on job preservation. If works council is not organized or trade union does not operate, the employer should inform the workers of the mentioned programme. Here it should be mentioned, that on the other side, the Croatian trade unions themselves proposed different job retention measures to their employers, some of the measures employers accepted and carried out. The only available data we have about the role of trade unions in mitigating the negative effects of economic crisis are the results of the research of Ivana Grgurev and Ivana Vukorepa, carried out by way of a questionnaire sent out via e-mail to 160 trade unions in Croatia. Unfortunately, answers were received from only 22 trade unions (organized at different levels), rendering the results incomplete.<sup>112</sup>

## 5. CONCLUSION

Strengthening of innovations in Croatia is one of the measures to be achieved under the Europe 2020 Strategy. While national strategic documents, programmes and platforms carried out by different public bodies have promoted the innovation climate in Croatia, life-long learning remains of fundamental importance. On the one hand, Croatia lacks a high-quality dual system of education. On the other hand, it is necessary to strengthen the duty of the employer to educate a worker *de lege ferenda*. Only innovative and educated workers can contribute to the competitiveness and improvement of Croatian economy. Training funds based on collective agreements characteristic of the Netherlands as elaborated by F. Pennings in his article are an interesting concept, however, heavily dependent on the will of social partners. Unfortunately, in Croatia social dialogue remains one of the weakest points of industrial relations and at a very low level, whereas a general training fund may be too futuristic for Croatia at the moment, but nevertheless worth thinking about.

Dialogue between the universities, polytechnics and the employers in order to meet the labour market demands should be strengthened, as shown on the example of StepRi Technology Park in Rijeka.

Based on the results of the research carried out among employers and trade unions it is possible to conclude that for trade unions, more flexibility in employment legislation, especially of fixed-term employment contract is for the time being not acceptable. On the flipside, employers can gain the needed flexibility by hiring self-employed persons to perform certain work. The status of this group of persons calls for in-depth research and analysis that do not exist in Croatia. *Ad hoc* employee sharing is a form of employment that is interesting as a tool to prevent dismissals, but this institution needs some modification, i.e. more clarity. Croatian labour law

<sup>112</sup> Grgurev, I., Vukorepa, I., *The Role of Trade Unions in Period of Economic Crisis in Croatia*, Zbornik Pravnog fakulteta u Zagrebu, vol. 65, no. 3-4, 2015, pp. 387-408.

is not familiar with the strategic employee sharing that could be an appropriate form of employment in tourism or other seasonal economic activities, and therefore worth regulating. Last but not least, the Active Labour Market Policy Measures assisting companies that start with innovations could be an efficient instrument, but it is necessary that they are regularly evaluated for their net effect and consequently adjusted to the labour market demands.

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Sažetak

## INOVACIJE I UNAPRJEĐENJE VJEŠTINA: IZAZOVI ZA HRVATSKO ZAKONODAVSTVO

U radu se analizira strateški i zakonski okvir za inovacije i unaprjeđenje vještina radnika u Republici Hrvatskoj. Rad se bavi pitanjem cjeloživotnog obrazovanja te posebice obvezom poslodavca da radniku omogući obrazovanje i osposobljavanje. U radu se iznose rezultati izvornog istraživanja autora o konceptu fleksigurnosti, atipičnih i novih oblika rada, provedenog u okviru projekta *Fleksigurnost i novi oblici rada*. Analiziraju se prikupljena stajališta poslodavaca koji djeluju u okviru nekoliko gospodarskih sektora, kao i stajališta sindikata o ovim institutima. Zaključno, analiziraju se i mjere aktivne politike tržišta rada usmjerene unaprjeđenju vještina i inovacija.

**Ključne riječi:** *inovacije; vještine radnika; Hrvatska; fleksigurnost; cjeloživotno obrazovanje; poslodavci; sindikat.*

Zusammenfassung

## NEUERUNGEN UND KOMPETENZENTWICKLUNG: HERAUSFORDERUNGEN FÜR DIE KROATISCHE GESETZGEBUNG

Die vorliegende Arbeit untersucht den strategischen und rechtlichen Rahmen für Neuerungen und Kompetenzentwicklung für Arbeitnehmer in der Republik Kroatien. Den Schwerpunkt bilden lebenslanges Lernen und die Pflicht des Arbeitgebers den Arbeitnehmern Weiterbildung und Qualifizierung zu ermöglichen. In der Arbeit werden die Ergebnisse der Forschung über Flexicurity, atypische und neue Beschäftigungen skizziert, die im Rahmen des Forschungsprojekts „Flexicurity und neue Beschäftigungsverhältnisse“ durchgeführt wurde. Standpunkte der in verschiedenen Sektoren tätigen Arbeitgeber und Gewerkschaften zu genannten Rechtsinstitutten werden auch untersucht. Zum Schluss werden aktive Maßnahmen der Arbeitsmarktpolitik für die Förderung von Kompetenzentwicklung und Neuerungen unter die Lupe genommen.

**Schlüsselwörter:** *Neuerungen; Arbeitnehmerkompetenzen; Kroatien; Flexicurity; lebenslanges Lernen; Arbeitgeber; Gewerkschaften.*

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Riassunto

## **INNOVAZIONI E POTENZIAMENTO DELLE COMPETENZE: UNA SFIDA PER LA LEGISLAZIONE CROATA**

Nel lavoro si analizza il quadro strategico e normativo per le innovazioni ed il potenziamento delle competenze dei lavoratori nella Repubblica di Croazia. Il lavoro tratta della questione della formazione continua ed in particolare dell'obbligo del datore di lavoro volto a permettere al lavoratore la formazione e la preparazione. Nel lavoro si illustrano gli esiti dell'indagine originale condotta dall'autrice circa il concetto di *flexycurity* delle forme di lavoro atipiche e tipiche, condotta nell'ambito del progetto *Flexycurity e le nuove forme di lavoro*. Si disaminano le opinioni raccolte dai datori di lavoro appartenenti ad alcuni settori economici, come pure le opinioni dei sindacati con riguardo a tali questioni. In conclusione, l'autrice offre una cernita delle misure di politica attiva del mercato del lavoro volte al potenziamento delle competenze e delle innovazioni.

**Parole chiave:** *innovazioni; competenze dei lavoratori; Croazia; flexycurity; formazione continua; datori di lavoro; sindacato.*